

FINAL
CITY COUNCIL
CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. April 8, 2008

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

- Call to Order
 - Invocation by Monsignor James Conley
 - Pledge of Allegiance
 - Approve the minutes of the regular meeting on April 1, 2008
-

SELECTION OF VICE-MAYOR

- Ballot Selection of Vice-Mayor
 - Vice-Mayor Oath of Office administered by Judge Jennifer Jones
 - Comments from Mayor and City Council Members
-

AWARDS AND PROCLAMATIONS

--Proclamations

Proclamations:

- Week of the Young Child
- International Student Recognition Days

--Service Citation

Distinguished Service Citation:

- Martin D. Leidy, Sr.

PUBLIC AGENDA

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a “first-come, first-served” basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Hattie Irving-Autism Awareness Association, Inc.

COUNCIL BUSINESS

UNFINISHED COUNCIL BUSINESS

2. DR2007-05: Proposed Amendments to the Unified Zoning Code Pertaining to the Regulation of Wireless Communication Facilities.
(Deferred April 1, 2008)

RECOMMENDED ACTION: 1) Adopt the findings in support of the proposed amendments as presented to the MAPC on October 18, 2007; adopt the proposed amendments to the Unified Zoning Code pertaining to the regulation of wireless communication facilities as presented to the MAPC on October 18, 2007; and approve the first reading of the ordinance; OR
2) Adopt the findings in support of the proposed amendments as presented to the MAPC on October 18, 2007; adopt the proposed amendments to the Unified Zoning Code pertaining to the regulation of wireless communication facilities as presented to the MAPC on October 18, 2007 with modifications to the map of properties eligible for an administrative permit as recommended by the Park Board on March 10, 2008; and approve the first reading of the ordinance; OR
3) Return the proposed amendments to the MAPC for reconsideration.

3. Repair or Removal of Dangerous and Unsafe Structures, 300 South Elizabeth. (District IV)

RECOMMENDED ACTION: Take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) Taxes are paid within ten days of the hearing, (2) the structure is maintained secure as of April 8, 2008 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of April 8, 2008, and will be so maintained during renovation.

NEW COUNCIL BUSINESS

4. Appeal of Dangerous Dog Determination by Matthew Beaulieu. (District IV)

RECOMMENDED ACTION: Determine disposition of the dog owned by Mr. Beaulieu.

(9:30 a.m. or soon thereafter)

5. Repair or Removal of Dangerous and Unsafe Structures. (District I, III, IV, VI)

<u>Property Address</u>	<u>Council District</u>
a. 620 North Cleveland	I
b. 945 North Wabash	I
c. 1806 East 12th Street North	I
d. 1701 North Grove	I
e. 2701 East Mossman	I
f. 2606 East 15th Street North	I
g. 1615 North Oliver	I
h. 2601 North Spruce	I
i. 158 North Poplar	I
j. 1735 South Main	III
k. 711 East Harry	III
l. 1334 South Bluffview	III
m. 839 West 55th Street South	IV
n. 2394 N. Hood	VI

RECOMMENDED ACTION: Close the public hearing, adopt the resolutions declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of April 8, 2008; (2) the structure has been secured as of April 8, 2008 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of April 8, 2008, and will be so maintained during renovation.

6. Contract for Providing Background Investigations.

RECOMMENDED ACTION: Approve this contract and authorize the necessary signatures.

7. Design Agreement: Kellogg, from 1400' east of 151st Street West to 1/2 mile west of Maize. (District V)

RECOMMENDED ACTION: Approve the design project, approve the Agreement, place the Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

* Consent Items

8. *SUB 2007-96 -Plat of Chautauqua Addition located south of 29th Street North and west of Hillside. (District I)

RECOMMENDED ACTION: Approve the plat and authorize the necessary signatures.

9. *VAC2007-00038-Request to vacate portions of a platted street right-of-way. Generally located west of Oliver Avenue, south of Douglas Avenue. (District II)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

10. *VAC2008-00005-Request to vacate a portion of a platted setback. Generally located east of Tyler Road, south of 29th Street North. (District V)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

* Consent Items

Allan Murdock, Housing Member is also seated with the City Council.

None.

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

*Consent items

None.

COUNCIL AGENDA

11.

COUNCIL MEMBER AGENDA

None.

12.

COUNCIL MEMBER APPOINTMENTS

RECOMMENDED ACTION: Approve the Appointments.

CONSENT AGENDA

13. Report of the Board of Bids and Contracts Dated April 7, 2008

RECOMMENDED ACTION: Receive and file report; approve Contracts;
authorize necessary signatures.

14. Applications for Licenses to Retail Cereal Malt Beverages:

<u>New Operator</u>	<u>2008</u>	<u>(Consumption off Premises)</u>
Martha A. Vasquez	Super del Centro Pawnee LLC	2425 South Hillside SU 900
<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Scott L. Webb	Delano Barbecue Co., LLC*	710 West Douglas
Steven T. Knolla	Knolla's Pizza East LLC*	7732 East Central Suite 123

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

15. Preliminary Estimates:

- a. Water Main in Rock Road, 53rd Street North to K-254 (north of 53rd Street North, west of Rock Road) (448-90196/635678/766729) Traffic shall be maintained during construction using flagpersons and barricades. (District Kechi) - \$771,250.00
- b. 2008 Contract Maintenance Mill & Overlay (north of 47th Street South, east of 135th Street West) (472-84661/132721/) Traffic shall be maintained during construction using flagpersons and barricades. (District I,II,III,IV,V,VI) - \$720,462.00
- c. Lateral 409 Four Mile Creek Sewer to serve Brentwood South 3rd Addition (north of Pawnee, east of Webb) (468-84492/744273/480962) Does not affect existing traffic. (District II) - \$77,000.00
- d. Water Distribution System to serve Brentwood South 3rd Addition (north of Pawnee, east of Webb) (448-90368/735407/470080) Does not affect existing traffic. (District II) - \$43,000.00

RECOMMENDED ACTION: Receive and file.

16. Petitions for Public Improvements:

- a. Street Paving in Country Hollow Addition, south of Kellogg, east of 127th Street East. (District II)
- b. Construct 13th Street and Webb Road Left Turn Lane to serve Foliage Center and Country Club Park Additions at 13th Street, west of Webb. (District II)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

17. Deeds and Easements:

- a. Sanitary Sewer Easement dated March 6, 2008 from RRGNL, LLC, a Kansas Limited Liability Company for a tract of land lying in a part of Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- b. Quit Claim Deed dated March 6, 2008 from RRGNL, LLC, a Kansas Limited Liability Company for a tract of land lying in a part of Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- c. Utility Easement dated February 28, 2008 from Patrick Fugate, for a tract of lying in a portion of the SE ¼ of Sec. 7, Twp. 28-S, R-1_w of the 6th P.M., Sedgwick County, Kansas (OCA # 744225). No Cost to City

RECOMMENDED ACTION: Accept documents.

18. March 2008 Monthly Contracts & Agreements Report to Council.

RECOMMENDED ACTION: Receive and File.

19. Mid-America All-Indian Center Improvement, MAAIC. (District VI)

RECOMMENDED ACTION: Approve the Contract Amendment and authorize the necessary signatures.

20. Municipality Resolution to Obtain Credit Card Account.

RECOMMENDED ACTION: Adopt the Resolution as written establishing the credit card account.

21. Second Reading Ordinances: (First Read April 1, 2008)

- a. Public Hearing on the Establishment of a Redevelopment District (Tax Increment Financing) for the C.O.R.E. Redevelopment Project. (District VI)

An ordinance of the city of Wichita establishing the C.O.R.E. Redevelopment District.

- b. ZON2007-69/CON2008-03-Zone Change from “SF-5” Single-family Residential to “LC” Limited Commercial Zoning with a Conditional Use for a nursery and garden center; generally located east of Hoover Road and south of 25th Street North, 2530 North Hoover Road. (District V)

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section v-c, as adopted by section 28.04.010, as amended.

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow in the First Floor Board Room

Cell Towers on Park Property
Action Team

Members: Tim Martz, Bob Gress, Larry Hoetner, Jim Mason and Larry Foos

Meeting was held on 1/10/08 at the Great Plains Nature Center. All team members were present.

The first list consists of parks that are eliminated from consideration for cell tower placement and the second list consists of parks within which staff has identified one or more sites that may possibly be suitable for a cell tower. Staff would be available to consult with cell providers on those sites.

Eliminated Sites:

Aley Park
Auburn Hills G.C.
Boston Park
Brownthrush Park
Buffalo Park
Chisholm Creek Park
Chisholm Greenway
LW Clapp G. C.
College Hill Park
Columbine Park
Cottonwood Park
Cypress Park
District II Land
Eastview Park
Edgemoor Park
Fairmount Park
Harvest Park
Claude Lambe Park
Meadows Park
Meridian Park
Murdock Park
Riverside Park System
Schell Park
Sim Park
S. Arkansas River Greenway
Southview Park
Swanson Park
Sycamore Park
Wildwood Park
Lynette Woodard Park
Woodland Park South
O.J. Watson Park
Oak Park

Considered with Staff Input:

Brooks Tract
Cessna Park West
Heller's Park
Pawnee Prairie Park
South Lakes Park* (See Below)
Cessna Park East*
Grove Park *
Evergreen Park*
Orchard Park*
Osage Park*
West Douglas Park*
Woodland Park North*

*Parks that contain lighted athletic fields
where consideration can be given to replacing
existing light poles with a cell tower.

DR2007-05: Proposed Amendments to the Unified Zoning Code Pertaining to Wireless Communication Facilities

District Advisory Boards Recommendations August and September 2007

The following is a summary of the comments and recommendations on this item.

DAB I: The board asked the following questions: 1) where can the towers be placed in District 1?; 2) Can towers be built in any part of the city?; 3) Do we know what is in the Master Plan?; 4) Does the changes remove power from the DAB?; 5) What is the height requirement for a tower?; and 6) Will the towers be disguised? The board expressed concerns with the request for parkland, the allowance of too many towers throughout the city, and the allowance of too many towers in District 1. **Action:** The board voted 8-0 to recommend approval of the proposed amendments. **Date of Action:** September 10, 2007.

DAB II: The Board expressed concerns with the notification process and that only notifying residents within 200 ft was inadequate. It was suggested that the notification range be increased to 1000 ft or 5-10 times the tower height. Additionally, it was mentioned that the proposed amendment seems to be eliminating the Board from the process. **Action:** The Board motioned that there be a notification provision providing people in the area to be notified based on the height of the tower, to give those residents the option to protest the request. Motion passed 8-0. **Date of Action:** August 6, 2007.

DAB III: Action: The Board approved the amendments to move forward to MAPC and City Council as recommended by staff 7-0. **Date of Action:** August 1, 2007.

DAB IV: The Board asked the following questions: 1.) Will this allow the whole City to have wireless capability? 2.) How do cell towers find locations to operate? 3.) Can the school district's new towers are used in this technology? 4.) How far do cell tower signals reach? **Action:** The Board recommended approving the proposed amendments 8-0. **Date of Action:** August 1, 2007.

DAB V: The DAB pointed out an inconsistency between the first page of the document, which cited 80' towers as acceptable, and the second page, which cited 65' towers as acceptable. **Action:** The Board recommended approving the amendments to move forward to MAPC and City Council 9-0 with David Dennis abstaining (will vote as a member of MAPC). **Date of Action:** August 6, 2007.

DAB VI: The Board expressed the following: 1) do not allow lattice towers 2) Does the school district allow anyone else to use their towers; 3) So, I can now put a tower in my own back yard; 4) Are these changes for the city's overall use for staff to have connection when working out in the field; 5) Will any Park property be considered for use for cell towers; 6) If the cell tower does not exceed the height limit, are they just allowed thru administrative approval? **Action:** The DAB made a motion to recommend Approval of the changes based on staff recommendations 6-2 with one abstaining. **Date of Action:** September 19, 2007.

Case No. DR2007-05: Proposed amendments to the April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code to amend Section III-D.6.g. and Section VI.9. and create Section I.L. and Section V.L. pertaining to the regulation of wireless communication facilities, including amendments to the administrative permit provisions and the establishment of a map of properties eligible for an administrative permit.

Background: On June 5, 2007, the City Council voted to initiate an amendment of the Unified Zoning Code pertaining to wireless communication facilities. The proposed amendments are shown in detail in the attached document entitled “Proposed Amendments to Wireless Communication Facility Regulations.” The proposed amendments address:

1. The eligibility of properties for administrative approval of towers. In order to be administratively approved, a tower would have to be located on a designated property. The properties proposed to be designated as eligible for administrative approval of towers are shown on the attached map entitled “Properties Eligible for an Administrative Permit for a Wireless Communication Facility.”
2. Adjustments to the height and setback criteria for administratively-approved towers are proposed. Taller towers could be approved administratively in NO, Neighborhood Office; GO, General Office; NR, Neighborhood Retail; and LC, Limited Commercial zoning districts. Administratively-approved towers would be required to comply with a setback requirement from low-density residential properties equal to one foot of setback per foot of tower height.
3. Presently, the Unified Zoning Code permits the construction of a new tower if it is less expensive than co-locating on an existing tower. The proposed amendments eliminate this “economic feasibility” test, meaning that a new tower need not be approved simply because it is less expensive than locating on an existing tower.
4. The proposed amendments include technical clarifications regarding the applicability of the regulations to all wireless communication facilities regardless of a property’s zoning.
5. The proposed amendments include updates to the aircraft warning light regulations to comply with changes in Federal regulations.
6. The proposed amendments include technical clarifications regarding the parties responsible for removal of unused towers.

The District Advisory Board for each of the six City Council Districts considered the proposed amendments during August and September. Each of the DABs voted to recommend approval of the proposed amendments. The DAB for District II recommended that the notification area for a Conditional Use for a wireless communication facility be increased from 200 feet to approximately 1,000 feet or 5-10 times the tower height. The attached document subtitled “District Advisory Boards Recommendations August 2007” summarizes the recommendations of the DABs.

Staff also invited representatives of the wireless communications industry to comment on the proposed amendments. Primarily, these representatives commented that they did not see a need to amend the regulations as they felt the current system was working fine, but given the City Council’s dissatisfaction with the current system, they are mostly satisfied with the proposed amendments. The wireless industry representatives indicated that they did not support the proposed amendment that would eliminate

administrative authority to reduce or waive the compatibility setback for tower in conjunction with approving an administrative permit.

Recommended Action: Based on information available prior to the public hearing, staff recommends **approval** of the proposed amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to wireless communication facilities. This recommendation is based on the following findings.

1. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon property owners: The proposed amendments will further the health, safety, and welfare of the community by providing regulations that increase the compatibility of wireless communication facilities with surrounding properties and give those property owners more notice of potential facilities. While the proposed amendments provide regulations and development standards that are more restrictive than existing regulations, the proposed amendments provide sufficient development opportunities for wireless communication facilities as to not create an undue hardship for developers of facilities.
2. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed revisions to the zoning regulations are consistent with the recommendations of the *Wireless Communication Master Plan, August 2000*. The recommended “Properties Eligible for an Administrative Permit for a Wireless Communication Facility” meet the criteria established in the *Wireless Communication Master Plan* for properties where wireless communication facilities are encouraged to locate.

MILLER STEVENS stated for the record that she was abstaining from voting on this item because she voted at the DAB.

SCOTT KNEBEL, Planning staff presented the staff report.

KNEBEL referred Commissioners to the handout, which were the revisions to the proposed amendment suggested by the City Attorney. He briefly reviewed the revisions.

Responding to a question from **DENNIS** concerning Item g (2), (b) and how it was at odds with the next page, **KNEBEL** commented that the key phrase is “18 inches wide on any side”. He said that type of tower is not typically used as a mounting bracket for a transmission antenna. Those types of towers have to be 6, 8, or 12 feet wide at the base. He said this particular clause makes provisions for antennas that need line of sight such as broadband wireless internet access. He also referred to the “definition section” of the plan.

TAPE 3, SIDE 1

Responding to a question from **HILLMAN** concerning topography and the significant ridge along Roosevelt and as well as other ridges within the community, **KNEBEL** commented that the guidelines of the Wireless Communication Plan dealt more with the impact of the tower on surrounding properties than identifying ideal locations for towers based on topography. He said topographically a property might be ideal; however, the area may not be suited for a tower because of surrounding land uses.

HILLMAN mentioned that you could see downtown from the church located at Mt. Vernon and Roosevelt. He also asked about the research and background done by staff to locate possible tower sites.

KNEBEL said the area of Mt. Vernon and Roosevelt is predominately residential and that was probably the reason it was not included in the map, which he said guided towards commercial properties. He said

he was not going to tell the Commission that the map was perfect, but he said there were provisions in the code for map revision.

Responding to **BISHOP's** question concerning page 3, Item #7 the language ".....assess technically feasible..." and whether staff had the means to do that, **KNEBEL** commented that the language says "may" not "will" and that the provision is included in the code to so that applicants know that a delay in processing an application might occur in order to allow that review.

KNEBEL added that the one to one set back was a compatibility setback, not a safety setback.

GREG FERRIS, FERRIS CONSULTING, commented that he believes the current wireless plan works because of all the tower cases brought before the MAPC for review, all of the controversial ones were denied even though they met the guidelines set forth in the regulations. He mentioned that if some of the cases that were turned down went to court, the City of Wichita probably would have lost. He said since the plan has been in effect for approximately 7 ½ years, modification might be appropriate. He said he has been involved with the placement of between 150-200 towers in a ten state area with at least twenty different jurisdictions. He also mentioned that Planning Staff made every effort to communicate with the wireless community, and added that although he represents T-Mobile he was speaking for himself and no particular company at this hearing.

GISICK Out @ 4:45 p.m.

He said he has reviewed the changes and the map and agrees with the recommendations, with the exception that he was requesting that staff have the ability to waive the compatibility setback. He commented that a tower is always more visible in the middle of a property. He said as the regulation is written, staff can never waive the setback so each case will have to go through the process of coming before the MAPC for review, which he said adds 2-4 months to the process that is unnecessary. He said staff currently has the ability to waive setbacks and that saves time and effort. He added that staff does not waive the requirement if there is any opposition, and, therefore; requested that this provision not be changed.

KNEBEL explained that the amendment attempted to limit administrative authority on granting these facilities. He added that the City Council feels there needs to be greater public scrutiny of these facilities.

DIRECTOR SCHLEGEL added that the public wants to know what the rules are because it appeared that the two biggest wireless companies seemed to be getting administrative approval of cell towers without anyone knowing what was going on or what rules apply. He said the City Council is interested in developing a more transparent set of rules so that everyone knows what the rules are.

FERRIS commented on a particular case and said that the community was not at a loss because of a setback. He said if they moved the tower 60 feet closer to the street to comply with the setback, the community could suffer. He said he tries to process every possible case he can the administrative route, because it is faster and added that they still follow the rules.

JANET MILLER, REPRESENTING THE BOARD OF PARK COMMISSIONERS, 1102 JEFFERSON, said the Park Board voted 5-0 to oppose the proposed amendment because parkland was located within those areas designated for cell towers on the map. She said as the City Council's advisory body on parks, recreation and open space, the Park Board did not feel that a park was an appropriate location for a cell tower. She said there is no parkland designation in the zoning code. She stated that the proposal would allow approval and placement of cell towers within certain parks at the sole discretion of an administrative permit, with no review by the Board of Park Commissioners, the City Council-

appointed body whose purpose it is to advise the Council on matters relating to Wichita Parks, and; therefore, the Park Board was not supportive of the amendments as written.

DENNIS asked staff if an amendment could be added that cell towers can't be built on parkland?

MILLER explained that of the over 4,700 acres of parkland in the city there were two types: some land is titled to the City and only about 1/3 of the total acreage is actually titled to the Board of Park Commissioners. She explained that the Park Board would have to be the property owner in order to be involved in the process because the applicant could apply to the City for an administrative permit and then an administrator could approve placement of the tower on parkland and it doesn't have to come to the Park Board for approval. Responding to a question from **DIRECTOR SCHLEGEL**, **MILLER** said the remainder of the parkland is under the control of the City Council.

DIRECTOR SCHLEGEL said approval of any agreement would have to go to the City Council and be on the agenda and that would happen before any administrative approval to ensure that the City Council was in agreement. He added that he and Director of the Office of Central Inspection, Kurt Schroeder signed off on administrative approvals.

MILLER commented that with any other permits for towers on parkland, the applicant has been the City.

DIRECTOR SCHLEGEL explained that the administrative permits for city-owned property are only allowed with the approval of the City Council. He said the Council would vote on whether to enter into an agreement to allow the cell tower to be built on their property, since they would function as the landlord or property owner.

FERRIS commented that **MILLER** was correct, that at one time there was no requirement that if someone wanted to construct a cell tower on parkland owned by city that it did not have to go to the Park Department or Park Board for comment. He mentioned the tower that was built on MacDonald Golf Course. He said now, they have to give a presentation to the Park Board so the board can forward their recommendation to the City Council.

MILLER commented that with the conditional use process, there is public notification, but there doesn't have to be any public notification process under an administrative permit.

DIRECTOR SCHLEGEL commented that properties on the map meet the eligibility criteria for cell towers.

There was considerable discussion concerning process and procedure and whether parkland should be eliminated from the map.

BISHOP asked **MILLER** what she would you like to see the MAPC do? She asked if it was as simple as removing any parkland or something that could be accomplished as part of the amendment process?

MILLER said it makes sense to remove parkland from the designated areas.

KNEBEL explained that if the MAPC decided park properties were not eligible cell tower locations, they would have to recommend a different map; that the amendment could not be done by text.

MOTION: To approve subject to staff recommendation, but add that staff draw a different map removing parkland.

BISHOP moved, **DENNIS** seconded the motion.
(No vote taken, discussion continued.)

MARNELL said he agreed with the flexibility of allowing staff to administratively permit on compatibility setbacks.

DIRECTOR SCHLEGEL reported that a number of City Council members do not want staff to have that flexibility.

SUBSTITUTE MOTION: To approve subject to staff recommendation.

MARNELL moved, **MCKAY** seconded the motion, and it passed (6-2-1); however, 8 affirmative votes are required by code for a recommendation to be taken forward to the governing body as a recommendation of approval.

BISHOP and **DENNIS** – No. **MILLER STEVENS** abstained.

KNEBEL clarified that the Commission was referring to the revised document dated 10/18/07.

HILLMAN said he would support staff's suggestion with a continuing review process. He said this was a good start but that he saw some "big holes".

KNEBEL commented that a majority of the entire Planning Commission membership (8 votes) is needed to amend the Unified Zoning Code (UZO). He said he would take the recommendation forward as a denial due to a technicality.

Published in the Wichita Eagle on _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION III-D.6.G. AND SECTION VI.G.9. OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (APRIL 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 44-975 AND CREATING SECTION I.L. AND SECTION V.L. OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, PERTAINING TO THE REGULATION OF WIRELESS COMMUNICATION FACILITIES.

WHEREAS, under the authority of K.S.A. 12-741, *et seq.*, the City of Wichita desires to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to the regulation of wireless communication facilities; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission made a recommendation regarding the amendments on October 18, 2007, after notice and hearing as provided by law under the authority granted by K.S.A. 12-741, *et seq.*;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA:

SECTION 1. Section III-C.6.g. of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

- g. Wireless communication facilities.** Whether allowed by right, subject to a building permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, wireless communication facilities shall be subject to the following provisions.
- (1) All wireless communication facilities shall be evaluated in terms of their conformance to the guidelines in the "Wireless Communication Master Plan" as adopted by the Governing Bodies, and applications for such facilities shall include information for review as required in that Plan.
 - (2) The following wireless communication facilities are permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this chapter.
 - (a) New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex

residences) and other structures, including support structures up to 20 feet above the building or the maximum height permitted by a building permit or an Administrative Permit in the underlying zoning district, whichever is greater.

- (b)** Modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original structure height.
- (c)** Modification and/or replacement of wireless communication facilities, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5.
- (d)** New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit shall be denied. Denied building permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that maintain conformance with the Location/Design Guidelines. Wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

- (3)** The following wireless communication facilities shall be approved by Administrative Permit in any zoning district, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if they conform to the Location/Design Guidelines in the “Wireless Communication Master Plan” and, for zoning lots located within the City, are designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map” of Sec. I-L.
 - (a)** New disguised ground-mounted facilities up to 85 feet in height in any zoning district.
 - (b)** New undisguised ground-mounted facilities up to 65 feet in the SF-10, SF-5, TF-3, MF-18, MF-29, B, and MH zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

- (c) New undisguised ground-mounted facilities up to 85 feet in the NO, GO, and NR zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.
- (d) New ground-mounted facilities up to 120 feet in height in the RR, SF-20, LC, OW, and GC zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.
- (e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI, and GI zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14., excluding the requirement of V-E.14.a, or Sec. V-C.14, as applicable.

- (4) All wireless communication facilities that do not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D. or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.
- (5) There shall be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.
- (6) No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.
- (7) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a building permit for a new ground-mounted wireless communication facility, as applicable, the applicant shall demonstrate to the satisfaction of the approving authority that: (1) there is no available space on existing or approved wireless communication facilities or other structures that can be utilized

to meet the communication need (an existing site will be considered “available space” only if the site is technically feasible with a ready, willing, and able landlord); and (2) there is no other technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located. The technical feasibility of existing, modified, or rebuilt structures may be reviewed by consultants to the Wichita-Sedgwick County Metropolitan Area Planning Department.

- (8) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a building permit for a wireless communication facility, as applicable, the owner of a proposed new undisguised ground-mounted wireless communication facility, and the owner of the land, if not the same, shall agree in writing that (a) the support structure is designed, and the ground area is adequate or will be made adequate, to accommodate at least one other carrier, if more than 80 feet in height, and at least two other carriers, if more than 100 feet in height; (b) reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized; and (c) the owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side shall be excluded from the co-location requirements of subsection a) of this paragraph.
- (9) Facilities cannot be unused for any continuous 12 month period. Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the wireless communication facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, “owner” shall include both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.

- (10) All wireless communication facilities shall comply with all federal, state, and local rules and regulations.

SECTION 2. Section VI.G.9. of the Wichita-Sedgwick County Unified Zoning Code as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

9. **Administrative Permits.** The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for wireless communication facilities pursuant to Sec. III-D.6.g. When an application for an Administrative Permit has been denied or when such application has been approved with conditions or modifications the applicant deems unacceptable, the applicant may file an application for a Conditional Use, CUP amendment, or P-O amendment, as applicable. The decision to approve may be appealed per the provisions of Section V.F. where it is alleged by anyone with standing to appeal other than the applicant that the decision was reached in error.

SECTION 3. Section I.L. of the Wichita-Sedgwick County Unified Zoning Code is hereby created to read as follows and the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility" map is incorporated herein as "Exhibit A":

L. PROPERTIES ELIGIBLE FOR AN ADMINISTRATIVE PERMIT FOR A WIRELESS COMMUNICATION FACILITY

In order to provide for review of Administrative Permit requests, the City has adopted and hereby maintains the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility" map.

1. **Map adopted.** The "Properties Eligible for an Administrative Permit for a Wireless Communication Facility" map, originally adopted April 1, 2008, and amended from time to time, is hereby adopted as part of this Code.
2. **Interpretation of boundaries.** The rules for interpreting the boundaries of properties eligible for an administrative permit for a wireless communication facility shall be the same as for interpreting the boundaries of zoning districts, as set forth in Sec. III-A.5.
3. **Amendments.** The procedures for changing the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility" map are set out in Sec. V-L.

SECTION 4. Section V.L. of the Wichita-Sedgwick County Unified Zoning Code is hereby created to read as follows:

L. AMENDMENTS TO PROPERTIES ELIGIBLE FOR AN ADMINISTRATIVE PERMIT FOR A WIRELESS COMMUNICATION FACILITY MAP

- 1. Initiation of amendment request.** Proposed changes to the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility" map may be initiated by the Metropolitan Area Planning Commission or by the Wichita City Council.
- 2. Planning Commission hearing.** The Planning Director will establish a time and date for a hearing before the Metropolitan Area Planning Commission and will notify the Metropolitan Area Planning Commission and the Wichita City Council of the date, time and place of said hearing. After consideration of the evidence and arguments presented at the hearing, the Metropolitan Area Planning Commission shall recommend approval, approval with conditions or modifications, or disapproval of the proposed change.
- 3. Wichita City Council hearing.** The Planning Director shall forward the Planning Commission's recommendation to the Wichita City Council. The Wichita City Council may accept, modify or reject the recommendation of the Planning Commission. The action of the Wichita City Council on any proposed change shall be final.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas, this _____ day of _____, 2008.

Carl Brewer, Mayor

ATTEST:

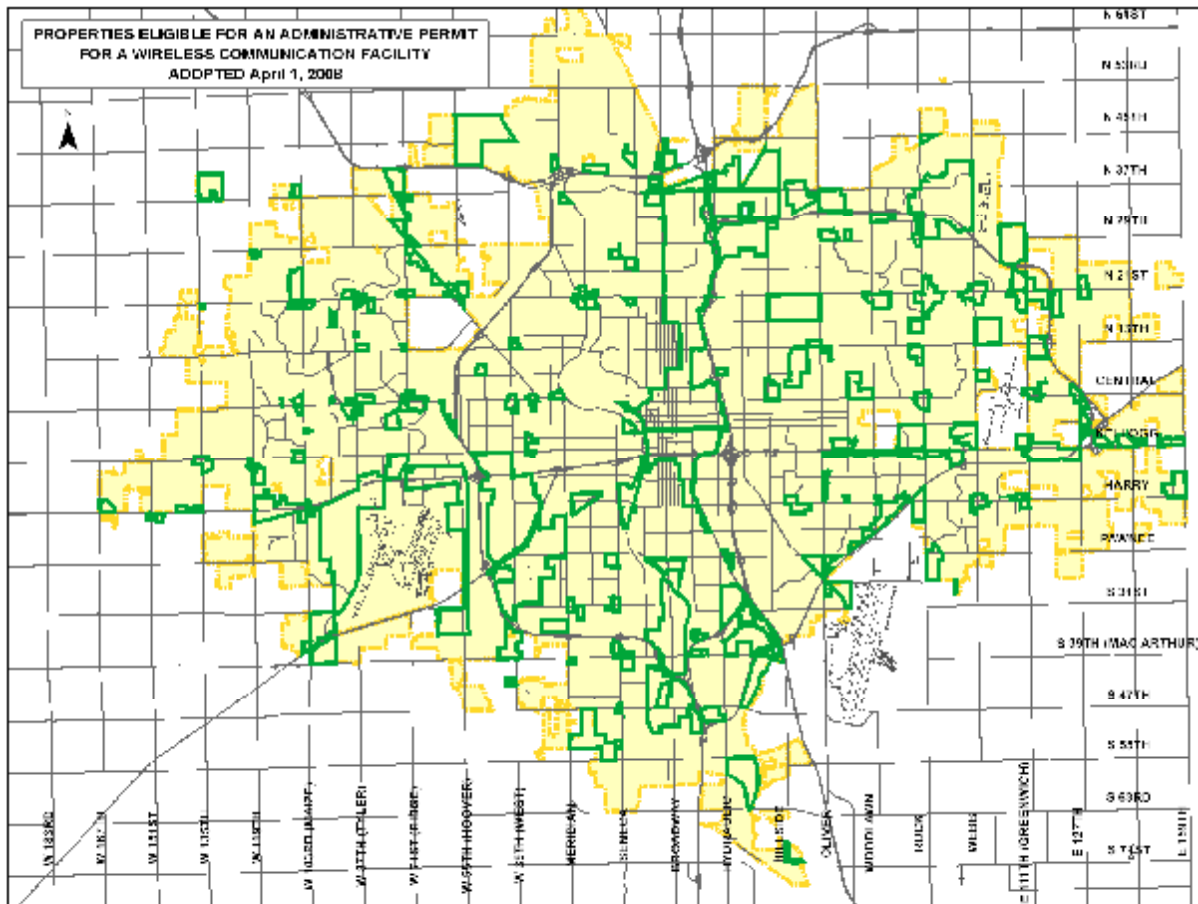
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

Exhibit A



PROPOSED AMENDMENTS TO WIRELESS COMMUNICATION FACILITY REGULATIONS

SECTION III-D.6.g.

g. Wireless communication facilities. Whether allowed by right, subject to a building permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, wireless communication facilities shall be subject to the following provisions.

(1) All wireless communication facilities shall be evaluated in terms of their conformance to the guidelines in the “Wireless Communication Master Plan” as adopted by the Governing Bodies, and applications for such facilities shall include information for review as required in that Plan.

(2) The following wireless communication facilities are permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this chapter.

(a) New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other structures, including support structures up to 20 feet above the building or the maximum height permitted by a building permit or an Administrative Permit in the underlying zoning district, whichever is greater.

(b) Modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original structure height.

(c) Modification and/or replacement of wireless communication facilities, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5.

(d) New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit shall be denied. Denied building permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that maintain conformance with the Location/Design Guidelines. Wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

(3) The following wireless communication facilities shall be approved by Administrative Permit in any zoning district, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if they conform to the Location/Design Guidelines in the “Wireless Communication Master Plan” and, for zoning lots located within the City, are designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map” of Sec. I-L.

(a) New disguised ground-mounted facilities up to 85 feet in height in any zoning district.

(b) New undisguised ground-mounted facilities up to 65 feet in the SF-10, SF-5, TF-3, MF-18, MF-29, B, and MH zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

(c) New undisguised ground-mounted facilities up to 85 feet in the NO, GO, and NR zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

~~(e)(d)~~ New ~~undisguised~~ ground-mounted facilities up to ~~85~~ 120 feet in height in the RR, SF-20, LC, OW, and GC limited commercial zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

~~(e)(e)~~ New ground-mounted facilities up to 150 feet in height in the GC general commercial IP, CBD, LI, and GI and more intensive zoning districts that comply with the compatibility height standards as outlined in Sec. IV-C.5., which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14., excluding the requirement of V-E.14.a, or Sec. V-C.14, as applicable.

(4) All wireless communication facilities that do not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D. or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.

(5) There shall be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. ~~No strobe lights shall be used. Flashing white obstruction lights shall not be permitted for nighttime operation.~~ Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.

- (6) No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.
- (7) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a building permit for a new ground-mounted wireless communication facility, as applicable, the applicant shall demonstrate to the satisfaction of the approving authority that: (1) there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the applicant's communication needs (an existing site will be considered "available space" only if the site is economically and technically feasible with a ready, willing, and able landlord); and (2) there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located (a rebuilding opportunity will be considered economically feasible if the cost of rebuilding an existing facility is no more than the cost of building a new facility on a new site). The technical feasibility of existing, modified, or rebuilt structures may be reviewed by consultants to the Wichita-Sedgwick County Metropolitan Area Planning Department.
- (8) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a building permit for a wireless communication facility, as applicable, the owner of a proposed new undisguised ground-mounted wireless communication facility, and the owner of the land, if not the same, shall agree in writing that (a) the support structure is designed, and the ground area is adequate or will be made adequate, to accommodate at least one other carrier, if more than 80 feet in height, and at least two other carriers, if more than 100 feet in height; (b) reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized; and (c) the owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side shall be excluded from the co-location requirements of subsection a) of this paragraph.
- (9) ~~The owner shall be responsible for the removal of a~~ Facilities cannot be unused for any continuous 12 month period. Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the wireless communication facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" shall include both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.

- (10) All wireless communication facilities shall comply with all federal, state, and local rules and regulations.

SECTION VI.G.9.

9. Administrative Permits. The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for wireless communication facilities pursuant to Sec. III-D.6.g. The Planning Director's decision on such an application may be appealed by filing When an application for an Administrative Permit has been denied or when such application has been approved with conditions or modifications the applicant deems unacceptable, the applicant may file an application for a Conditional Use, CUP amendment, or P-O amendment, as applicable. The decision to approve may be appealed per the provisions of Section V.F. where it is alleged by anyone with standing to appeal other than the applicant that the decision was reached in error.

SECTION I.L.

L. PROPERTIES ELIGIBLE FOR AN ADMINISTRATIVE PERMIT FOR A WIRELESS COMMUNICATION FACILITY

In order to provide for review of Administrative Permit requests, the City has adopted and hereby maintains the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map."

1. Map adopted. The "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map," originally adopted (date of publication of UZC revision), and amended from time to time, is hereby adopted as part of this Code.
2. Interpretation of boundaries. The rules for interpreting the boundaries of the Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map shall be the same as for interpreting the boundaries of zoning districts, as set forth in Sec. III-A.5.
3. Amendments. The procedures for changing the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" are set out in Sec. V-L.

SECTION V.L.

L. AMENDMENTS TO PROPERTIES ELIGIBLE FOR AN ADMINISTRATIVE PERMIT FOR A WIRELESS COMMUNICATION FACILITY MAP

1. Initiation of amendment request. Proposed changes to the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" may be initiated by the Metropolitan Area Planning Commission or by the Wichita City Council.
2. Planning Commission hearing. The Planning Director will establish a time and date for a hearing before the Metropolitan Area Planning Commission and will notify the Metropolitan Area Planning Commission and the Wichita City Council of the date, time and place of said hearing. After consideration

of the evidence and arguments presented at the hearing, the Metropolitan Area Planning Commission shall recommend approval, approval with conditions or modifications, or disapproval of the proposed change.

3. Wichita City Council hearing. The Planning Director shall forward the Planning Commission's recommendation to the Wichita City Council. The Wichita City Council may accept, modify or reject the recommendation of the Planning Commission. The action of the Wichita City Council on any proposed change shall be final.

Agenda Item No. 2.

**City of Wichita
City Council Meeting
April 8, 2008**

TO: Mayor and City Council Members

SUBJECT: DR2007-05: Proposed Amendments to the Unified Zoning Code Pertaining to the Regulation of Wireless Communication Facilities

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Unfinished Business

Recommendation: Adopt the proposed amendments.

Background: On June 5, 2007, the City Council voted to initiate an amendment of the Unified Zoning Code regulations pertaining to wireless communication facilities. Initiating the amendment indicated a City Council desire to consider changes to the regulation of wireless communication facilities and commenced a public input and review process to consider the proposed changes. The public input and review process consisted of:

<u>Activity</u>	<u>Date(s)</u>
City Council authorization of zoning code text amendments	June 5, 2007
Review of proposed amendments with wireless industry	July 10, 2007
Review of proposed amendments with District Advisory Boards	August 1 & 6 and September 10 & 19, 2007
Review of proposed amendments with Park Board	October 8, 2007, February 11, 2008 and March 10, 2008
Planning commission review of proposed amendments	October 18, 2007

The proposed amendments are shown in detail in an attached document entitled “Proposed Amendments to Wireless Communication Facility Regulations.” In summary, the proposed amendments address:

1. Presently, all properties are eligible for an administratively-approved tower, depending upon the height of the proposed tower and the zoning of the property. If the proposed amendments are adopted, a tower would have to be located on a designated property in order to be administratively approved. The proposed amendments significantly reduce the number of properties where a tower could be administratively approved and make a map available for public information that designates all the properties that are eligible for administrative approval of a tower.
2. Adjustments to the height and setback criteria for administratively-approved towers are proposed. Taller towers could be approved administratively in the “NO” Neighborhood Office; “GO” General Office; “NR” Neighborhood Retail, and “LC” Limited Commercial zoning districts. Administratively-approved towers would be required to comply with a setback requirement from low-density residential properties equal to one foot of setback per foot of tower height.
3. Presently, a new tower must be permitted if it is less expensive than locating antennas on existing towers. The proposed amendments eliminate this “economic feasibility” requirement, meaning that a new tower need not be approved simply because it is less expensive than locating antennas on existing towers.
4. The proposed amendments clarify that the regulations also apply to properties governed by a Protective Overlay District or a Community Unit Plan.

5. The proposed amendments include updates to the aircraft warning light regulations to comply with changes in Federal regulations.
6. The proposed amendments clarify the parties responsible for the removal of unused towers.

Analysis: Each of the District Advisory Boards voted to recommend approval of the proposed amendments. With the exception of DAB II, each of the DABs recommended approval of the proposed amendments as recommended by staff. DAB II recommended changing the proposed amendments to require notification of adjacent property owners of tower requests even for applications for an administratively-approved tower. A summary of the DAB comments and recommendations is attached.

The Wichita Board of Park Commissioners voted to oppose the proposed amendments based on a perception that the amendments would allow towers in parks by administrative approval with no review by the Park Board. However, the proposed amendments do not preclude Park Board review of a request for an administratively-approved tower in a park. Additionally, a request for an administratively-approved tower in a park would first require approval of a lease by the City Council or Park Board (depending upon land ownership). The City Council could adopt a policy requiring Park Board review of a lease for a tower on parkland. A summary of the Park Board comments at the October 8, 2007, meeting is attached.

The Metropolitan Area Planning Commission considered the proposed amendments and voted (6-2 with one abstention) to recommend adoption of the proposed amendments as recommended by staff. However, there is a statutory requirement that a majority of the membership of the MAPC vote affirmatively to recommend adoption of amendments to the zoning code. Since the MAPC vote was two votes short of the statutorily-required minimum, a two-thirds majority vote of the City Council is required in order to adopt the proposed amendments. The minutes of the MAPC hearing are attached.

Subsequent to the MAPC hearing the Director of Park and Recreation directed department staff to review the recommendation of the MAPC and provide an alternative recommendation to the Wichita Board of Park Commissioners. Park and Recreation Department staff reviewed the parks included on the map of properties eligible for an administratively-approved tower to determine if any parks should be removed from the map. The criteria used by staff to evaluate the appropriateness of parks for the construction of a tower include: the size of the park; the impact of a tower on future park development; the ability to screen the tower; the extent to which a tower would detract from the use or appearance of the park; and the ease of vehicular access to a tower site. On February 11, 2008, the Wichita Board of Park Commissioners considered the staff recommendation and voted to direct staff to evaluate the appropriateness of using athletic field light poles as wireless communication facilities and return with an updated recommendation on March 10, 2008. On March 10, 2008, the Wichita Board of Park Commissioners voted to include several large parks and several parks with athletic field light poles but recommended removal of the remainder of the parks from the map of properties eligible for an administratively-approved tower. A map entitled "Modifications Recommended by the Park Board" illustrates the recommendation of the Park Board.

On April 1, 2008, the City Council considered the proposed amendments. The City Council voted (7-0) to accept the recommendation of the Park Board regarding the map of the properties eligible for administratively-approved towers and to defer action on the proposed amendments to April 8, 2008, to allow time for City Council Members to determine if any further properties should be removed from the map for their district.

Financial Considerations: None.

Goal Impact: The proposed zoning code text amendments address the Economic Vitality and Affordable Living Goal by establishing reasonable regulations that balance the need for wireless communication services in the community with the need to mitigate negative impacts of wireless communication facilities on adjacent properties and overall community aesthetics.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendations/Actions:

1. Adopt the findings in support of the proposed amendments as presented to the MAPC on October 18, 2007; adopt the proposed amendments to the Unified Zoning Code pertaining to the regulation of wireless communication facilities as presented to the MAPC on October 18, 2007; and approve the first reading of the ordinance; or
2. Adopt the findings in support of the proposed amendments as presented to the MAPC on October 18, 2007; adopt the proposed amendments to the Unified Zoning Code pertaining to the regulation of wireless communication facilities as presented to the MAPC on October 18, 2007 with modifications to the map of properties eligible for an administrative permit as recommended by the Park Board on March 10, 2008; and approve the first reading of the ordinance; or
3. Return the proposed amendments to the MAPC for reconsideration.

(Recommendations #1 and #2 require a two-thirds majority vote. Recommendation #3 requires a simple majority vote.)

City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
300 South Elizabeth (District IV)

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action based on testimony received during the review hearing.

Background: This property was before the Board of Code Standards and Appeals (BCSA) on September 10, 2007. No one appeared to represent the property, no repairs had been made to the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.

On November 20, 2007 this case was before City Council. The property was sold at tax sale on September 5, 2007. City Council directed that the purchaser (Mr. Glen McDonald) be granted an additional ninety days to complete the exterior repairs, after receipt of the deed. If repairs were not completed, staff was directed to proceed with condemnation, demolition and removal of the structure.

On March 20, 2008 Council Member Paul Gray directed staff to bring this back before City Council on April 8, 2008. The new owner of the property has requested until May 30, 2008, to complete the exterior repairs.

Analysis: Staff made an inspection of the property on March 7, 2008. Some new windows had been installed, but no other repairs had been made to the structure.

Ownership was transferred to Mr. McDonald on November 16, 2007, but Mr. McDonald did not receive the deed, which has been recorded in his name. The 2007 taxes are delinquent in the amount of \$950.72, which includes specials. There are 2007 and 2008 special assessments for boardups, lot cleanup and weed mowing in the amount of \$1,373.27.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The owner/s have been informed of the date and time of the hearing.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) Taxes are paid within ten days of the hearing, (2) the structure is maintained secure as of April 8, 2008 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of April 8, 2008, and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolution published once in the official city paper and advise the owners of these findings.

Attachments: None

RECEIVED

MAR 26 '08

March 21, 2008

To whom it may concern,

CITY CLERK OFFICE

I am again filing an appeal on behalf of my dog, Mr. Bonz. On March 6, 2008, we attended a hearing about the decision that was made to euthenize Mr. Bonz. I am appealing the euthenization of Mr. Bonz because there are other options.

The decision to euthenize Mr. Bonz was made due to a letter that Ms. Danielle Cady submitted to you. In this letter Ms. Cady claims that Mr. Bonz "attacked" her daughter. I am disputing this claim because he was acting in defense to the pain that he suffered. It was stated at the hearing that "it did not matter what happened to the dog" although the law clearly states differently. Ms. Cady also claimed that we would not take responsibility for the dog. Again, I would like to state that we were not present at the time of the bite and therefore could not prevent the situation from happening. We deeply regret that this has happened to our neice, Ms. Cady's daughter. We have always had a wonderful relationship with the child and that has not changed. Our relationship with Ms. Cady however has changed in ways that can not be repaired, as she has been less than honest about the entire situation.

Ms. Cady also stated that Mr. Bonz is likely to bite again. Ms. Cady's daughter is more likely to get bit again by any animal due to the fact that she is not being taught proper behavior around animals. We believe that it is more likely that the child will be bit again rather than Mr. Bonz biting again.

Ms. Cady's statement has many inconsistencies from what she put in the statement to you and what she has told us and others, immediately following the incident. We have in fact seen and been responsible for the child that was bitten although we have not seen nor heard from Ms. Cady in approximately a month. Ms. Cady has not even tried to make contact with us since she was made aware that we received a copy of her statement. I dispute most of the statements that Ms. Cady made and would like a chance to dispute this at another hearing.

We will be awaiting your response.



Matthew Beaulieu
2165 S. Pinecrest
Wichita, KS 67218
(316) 806-6180



Cerena Before Surgery



Cerena After Surgery



Cerena At Home

EXHIBIT

"A"

rec'd 2-26-08

EXHIBIT

February 25, 2008

"B"

Mr. Dennis Graves
Animal Services Supervisor
City of Wichita
Department of Environmental Health
1900 East Ninth Street
Wichita, Kansas 67214

RE: Bonz a Black and White American Pit Bull
Residing or maintained at 2165 S. Pinecrest

Mr. Graves,

I am formally notifying you that I am exercising my right to appeal your decision declaring my dog, Bonz, to be a dangerous animal.

I am appealing this decision based on Section 6.04.045 (2 (ii) and 3). I am also appealing your decision because the decision was also based on information stating that this was the dogs second bite incident. I repeatedly told the hospital staff and your staff that the first incident was an accident.

The first incident occurred during play. I was holding a tree branch for the dog to grab and play with. At the time the dog went to take hold of the branch, he accidentally missed the branch and caught my hand and immediately let go and showed remorse for the incident. Thus this accident happened but was nothing but an accident.

The second incident occurred without me being present. The child involved in the second incident had been told prior to me leaving the night before, to leave the dog alone as she was trying to ride the him like a horse. She had been repeatedly told on numerous occasions not to torment the dog while she was in our home that it is fine to pet him but she could not poke at his face, pull on his ears, tail, or paws, and to not try to ride him like a horse. On the day of the incident, my mother stated that she was in the bathroom when she heard the dog yelp, followed by the child crying. My mother also stated that she does not know what happened prior to the incident and neither the child nor her sister, that was present, will say what happened. Both have been asked repeatedly but refuse to give an answer to what occurred.

The dog in question was raised around and has always been around children and other animals and has never been aggressive towards either. He has been around children ages newborn thru 17 years of age and has been loving to all. He has never shown aggression to any human being, young or old, to people he knows or to strangers that he sees for the first time. He is a loving family dog and is very well behaved.

The Animal Control Officer stated that, the dog, Bonz was not a dangerous dog and allowed us to walk him to the van on his leash rather than using the pole. He was cowering in the corner when the officer arrived and proceeded to allow her to pet him and he sniffed and licked the officer. I am requesting that the Animal Control Officer be present at the impending hearing.

In conclusion, Sections 6.04.046 thru 6.04.048 clearly state that there are other alternatives than to euthanize, my dog, Bonz. To do so would not only be an injustice to said dog but also to my children, ages 4, 3 and 1, who love and miss him and are waiting for him to come home.

Sincerely,

Matthew Beaulieu-Owner





EXHIBIT

"C"

Mathew Beaulieu
2165 S. Pinecrest
Wichita, Kansas 67210

Order Declaring Dog to be Dangerous
Pursuant to Section 6.04.045

Date: March 11, 2008

DOG OWNERS NAME: Mathew Beaulieu
ADDRESS: 2165 S. Pinecrest
Wichita, Kansas 67210
PHONE: 806-6180

History of the Case:

One dog was deemed dangerous by animal services personnel on February 20, 2008. The dog is described as follows:

Pit bull, black and white, male
Name: Bonz

This determination was based on an attack and bite that occurred at 2165 S. Pinecrest, Wichita, Kansas on February 10, 2008. Environmental Services received a request for appeal from the dog's owner, Mathew Beaulieu, on February 26, 2008. A hearing for administrative review was conducted by Don Henry, Environmental Services Manager, on March 6, 2008.

Summary of Proceedings:

Animal Services Testimony

Dennis Graves, Animal Services Supervisor, testified that on February 10, 2008, animal services received a report that a five-year old girl, Cerena Cady, had been bitten by a dog. She was taken to Wesley Medical Center for emergency treatment. The bite victim had been admitted to Wesley for medical treatment as a result of facial injuries due to the bite. Mr. Graves testified that the bite was severe, and the nature of the injury required sutures and plastic surgery. Mr. Graves provided a copy of the bite report, three photographic prints of Cerena Cady showing the

injury to her face, and a written statement by Cerena Cady's mother, Danielle Cady. Mr. Graves testified that he had reviewed the case and that the dog in question meets the definition of a dangerous dog according to conditions (1) and (5) of the definition as stated in Section Chapter 6.04 of the City Code. He also said Danielle Cady reported the dog had previously bitten Mathew Beaulieu on the hand in a separate incident. Mr. Graves also testified that the dog in question was not vaccinated and licensed. He stated that he had declared the dog dangerous on February 10, 2008, because the dog met the definition of a dangerous dog, due to the severity of the wound, the conditions under which the animal was being kept by the owner and the presence of young children. It was his opinion that the dog was likely to bite again.

Tracey Andrews, animal control officer II, assisted in the case by gathering and organizing information relative to the incident. Officer Andrews said she had spoken on the telephone with the victim's mother, Danielle Cady. She testified that during her telephone conversation with Danielle Cady, that Ms. Cady stated the wound had required twenty-six stitches and plastic surgery. According to Officer Andrews, Ms. Cady said that the wound would require on-going treatment from a plastic surgeon in order to minimize affects of scarring as a result of the wound. Ms. Andrews also testified that Ms. Cady told her that Cerena Cady was having nightmares as a result of the attack and bite.

Drew Bessey, animal shelter supervisor, testified that the dog in question is impounded and being kept at the City of Wichita Animal Shelter. He testified that the dog had not caused shelter staff any problems so far to his knowledge. Mr. Bessey also stated that due to the attack and bite incident, precautions are being taken with the dog such as minimized handling and separation from other dogs.

Sheila DuBey, animal control officer I, responded to the call regarding the attack/bite incident in question. Officer DuBey testified that Mathew Beaulieu refused to cooperate and would not turn the dog over for rabies quarantine. Mr. Beaulieu's mother brought the dog out, and Mathew Beaulieu's wife, Jessica Beaulieu assisted Officer DuBey in loading the dog into the animal services van. Officer DuBey stated that the dog did not act aggressive at that time.

Owner of the dogs and witnesses on behalf of the owner

Mathew Beaulieu confirmed that he is the owner of the dog in question. Mr. Beaulieu testified that he believes the dog is not vicious. He testified that he did not know what happened. Mr. Beaulieu stated that the dog had been around kids all its life. He stated that Cerena Cady had been trying to ride the dog like a horse the night before the bite occurred. Mr. Beaulieu testified that the dog had bitten him before. He stated that the dog bit him by accident while playing. The dog bit his hand when it was going for a tree branch he was holding. Mr. Beaulieu asked the hearing officer to consider his own children, ages one, three and four, before making a determination. He said his children will be upset if they can't have the dog back. They ask if Bonz is dead. Think about how upset they'll be if Bonz dies. Mr. Beaulieu said the dog would be safe around the children, if it were to be introduced slowly back into the home after being impounded.

Jessica Beaulieu is Mathew Beaulieu's wife. Jessica Beaulieu testified that she believed everything would be fine again and the children could be around the dog. The dog had never hurt anyone before. They have had strangers in the house, and Bonz would jump up in their laps and lick and love them. She said the dog had never hurt any other animals including a little pug dog that he'd been around, and cats. Ms. Beaulieu stated there is a fenced yard and they go with Bonz when he is outside. She testified that she still trusts the dog around her own children. She said the kids are sad because they miss the dog. Jessica stated she would require supervision when children are around the dog if they get him back. Ms. Beaulieu said that she understood Cerena's big sister was in the room at the time of the attack and bite. She stated the two girls would not tell anyone what happened.

Mathew Beaulieu, his wife Jessica Beaulieu, and their three children ages four years, three years, and one year live with Patrice Beaulieu (Mathew Beaulieu's mother, and the victim's grandmother). Patrice Beaulieu was home and caring for Cerena Cady at the time of the incident. Patrice Beaulieu testified that no one knows what happened. She said she left Cerena alone for about three minutes when the incident occurred. She heard a yelp and a scream. She then found that Cerena had been bitten on the face. Ms. Beaulieu testified that Cerena had not been playing with the dog earlier that morning. She stated that she had never seen Cerena tease or torment the dog in the past. Ms. Beaulieu testified that she had known the dog since it was a puppy.

Mary Lynn Adams is Jessica Beaulieu's mother. Ms. Adams testified the dog in question was raised with the children. She said she had witnessed the dog around strangers without incident. She said the children play tag with the dog. They chase each other around and the dog bumps them with his nose. Sometimes when they tell them to stop, the dog doesn't want to. Ms. Adams testified that she has witnessed her one-year old grandchild sticking his fingers up the dog's nose, and it makes him sneeze and lick. Ms. Adams stated she would trust her grandchildren alone with the dog. She would trust any human, child or old person, around the dog. The dog is not dangerous and never has been. She stated she is afraid of big dogs, but not this one. Ms. Adams stated she would like to have the dog, if Mathew cannot have it back.

Written statements and evidence

The hearing officer reviewed a copy of the bite report regarding the incident, completed by Wichita animal services officer Sheila DuBey.

The hearing officer reviewed photographs of the bite victim, Cerena Cady.

The hearing officer reviewed a written statement provided by the victim's mother, Danielle Cady on March 5, 2008.

Danielle Cady's Written Statement

To whom this may concern,

This letter is in regard to the incident involving my daughter my minor Cerena Cady and the Pit bull dog by the name of Mr. Bonez. On the morning of February 10, 2008 Cerena was in

the care of her grandmother Patrice Beaulieu. I was informed at 9:08am via cell phone that my child had been attacked and needed emergency treatment. I instructed my mother to take my child to the Emergency Department at Wesley Medical Center for treatment. Shortly after the phone call, I drove to the hospital to meet with my child. I was informed that the laceration would need to be attended to by a plastic surgeon. By this time, I had already taken the liberty of filing a report with Animal Control for the City of Wichita.

Matthew was sent a MSM message on his cell phone of what had occurred and that he needed to call Emergency North at Wesley Medical Center. He did return the call, however he never attempted to visit Cerena at the hospital. Upon her release, Matthew or Jessica did not attempt to make contact with Cerena, until I asked them to call her. I made this request because Cerena was concerned that she was in trouble because she had to go to the hospital, and she was afraid that they were upset with her because their dog had her blood on him.

In addition to the hospital and plastic surgeon bills, I have incurred other expenses due to the attack. They include out of pocket expenses on prescriptions, hospital co-pay, plastic surgeon follow up co-pay, as well as necessary medical supplies to treat the wound. This wound will require on going follow up care to reduce the appearance of the scare for 1 year. She was prescribed to use Mederma Scare Care for 12 weeks, in addition to using Fallene Total Block every morning and afternoon to avoid discoloration for 1 year. After the first year, she will need to apply the Total Block during any sun exposure for the rest of her life.

Furthermore, Cerena has had many issues resulting from the attack. They include nightmares and bedwetting. These issues have been subsiding as time passes, but they still occur with less frequency.

My concern with this matter is that Matthew and Jessica are assuming no responsibility for this matter. They have not offered to pay for any of the damages to my daughter. This is part of the responsibility of owning an animal. Should it attack, they should assume accountability. In addition to this, they have no care for the safety of their children with the dog. He has bit twice now. I don't want to receive a phone call saying that one of their children were hurt. The agreement when they went to live with my mother that when the dog attacks, he has to leave. Matthew and Jessica are not following the agreement. If the situation had been reversed, they would expect the owner to assume responsibility. I feel that it is not in their best interest to be awarded to dog in question. They have demonstrated negligence in regard to my child, in not considering the safety of their children, and in their relationship with our family. Nor do they have the means to support the dog, due to their unemployment status. It is my understanding that fines have accumulated for the care of the animal. I don't see them capable of paying those fees, when they have neglected to pay of the needs of Cerena.

Overall, they are not responsible pet owners and should not be allowed to regain custody of the animal. My concern now is the safety of my nephews. The matter of financial responsibility will be handled in civil court if need be. My sole purpose for mentioning the issues is to demonstrate their lack of concern for the safety and well being of others with regard to the dog. Should this happen in the future to someone else, I feel that they will react in the same manner.

Sincerely,

Danielle Cady

I have attached photos of Cerena from the attack. There is a before and after surgery, in addition to a follow up picture. And I would also like a transcript of the hearing if at all possible seeing as I am unable to attend.

The hearing officer reviewed the request for appeal including written statements provided by the dog's owner, Mathew Beaulieu on February 25, 2008 (received February 26th). Mr. Beaulieu stated he was playing with the dog when the first bite occurred. He stated the bite was an accident, and the dog showed remorse. Mr. Beaulieu stated that the incident in which Cerena Cady was bitten occurred when he was not present. He stated the child had been told the night before to leave the dog alone because she was trying to ride it like a horse. He also stated that on numerous occasions she had been told she could pet the dog, but not to poke at his face, pull on his ears, tail or paws, and not to try and ride him like a horse. Mr. Beaulieu stated that his mother told him she heard a yelp, followed by the child crying. He also said his mother told him she did not know what happened prior to the incident. It is his understanding Cerena's sister was present when the attack occurred but she has not said what happened. Mr. Beaulieu stated the dog in question was raised around children and other animals and has never been aggressive towards either. He has been around children ages new-borne through seventeen years and has been loving to all. He has never shown aggression to any human being, young or old, to people he knows or strangers he has seen for the first time. He is a loving family dog and very well behaved. Mr. Beaulieu stated that the animal control officer picked up the dog without incident and requested that the officer be present at the hearing.

Findings and Order

Based on the testimony of the witnesses and documents reviewed, it is determined that the dog at issue is a dangerous dog as defined by Section 6.04.045 of the City of Wichita Code.

Factors leading to this conclusion include:

Nature of the attack, Section 6.04.045(a): Based on the evidence, the attack on Cerena Cady was severe enough in nature to have injured the face to the extent of requiring emergency medical treatment. Initially the wound required treatment by a plastic surgeon including twenty-six sutures. The wound will require ongoing follow up care for one year in order to reduce the appearance of the scar. After the first year, she will require a prescribed sun block for the rest of her life in order to prevent darkening of the scar. The incident has caused Cerena Cady emotional suffering including nightmares and bedwetting.

Conditions under which the dogs have been kept facilitate and contribute to the aggressive behavior of the dog, Section 6.04.045(d): These conditions include: the presence of young children residing in the home and failure to provide basic care including vaccinations and licensing of the dogs.

Based on these factors, the dog is declared to be dangerous. Based on the nature of the attack and the severity of the wound inflicted, and conditions under which the dog was being kept, it is not appropriate to allow the continued confinement of the animals pursuant to Section 6.04.045 of the Code of the City of Wichita.

It is therefore ordered that the appropriate disposition of each of the dogs is euthanasia.

As a result of this determination the aforementioned dangerous dog is ordered to be euthanized by animal services within fifteen days of this notice. This order may be appealed to the Wichita City Council as provided by Section 6.04.010 of the code of the City of Wichita. An appeal must be filed with the City Clerk no later than ten business days from the date of this letter. Absent any further appeal by the owner, each of the dogs will be destroyed by euthanasia as ordered on 4-2- 2008.

DO

(Administrative Review Officer)

(Date)

ANIMAL CONTROL HEARING FOR
VICIOUS DOGS INCIDENT
OCCURRING FEBRUARY 10, 2008
2165 S PINECREST

March 6, 2008 – 10:00 am
1900 E 9th St, Wichita, KS
Library

Attendees:

Don Henry, Environmental Manager
Dennis Graves, Animal Control Supervisor
Rebecca Fields (transcription only)
Jessica Beaulieu – co-owner of dog
Matt Beaulieu – co-owner of dog
Mary Lynn Adams – relative of dog owners
Patrice Beaulieu – relative of dog owners and lives with owners & dog
Sheila DuBey, Animal Control Officer
Tracie Andrews, Animal Control Officer
Drew Bessie, Animal Shelter Supervisor

The hearing officially convened at 10:01 am with Don Henry, Environmental Manager, as the official hearing officer.

Don Henry presented the ground rules of the hearing and then had everyone state their name, address, and purpose for attending the hearing.

Dennis Graves testified that on February 10, 2008, Animal Control was notified by Wesley Hospital of a young female that had injuries to her face inflicted by a pit bull dog. The female's name was Cerena Cady, a 5 year old, who had received multiple bite wounds to the face. Dennis then submitted photos at the hearing of Cerena's injuries. Animal Control had responded to the incident address and took the dog into custody without incident. The dog was evaluated as a dangerous animal per the Wichita City Code. Dennis Graves then read the City Code aloud at the hearing.

Dennis further testified that on February 26, 2008, he received an appeal letter from the dog owner(s) and set this hearing. Dennis stated that he believes the evidence supports the criteria for the dog being labeled dangerous, including previous bite testimonies, and believes that the dog has the propensity to bite again. Cerena is a young child that was left alone with the dog and during this time was bitten by the dog.

Don Henry then asked Dennis Graves if the dog was licensed and vaccinated when picked up. Dennis Graves replied "no".

Tracie Andrews then testified that she had spoke with the victim's mother. She stated that the mother has grave concerns for her child due to Cerena having plastic surgery and the child (Cerena) is currently having nightmares. The mother is worried that Matt's (dog owner's) children can also be bit by the dog. The mother did not want to testify today due to a conflict with the family (her relatives).

Drew Bessey was asked to speak at the hearing. Drew said that the Animal Shelter had no problems with the dog, although the dog was being held in a section away from other dogs. The dog has also received minimum handling at the Animal Shelter due to being labeled as a dangerous animal.

The Animal Control Officer that was dispatched to the scene of the incident, Sheila DuBey, testified that when she arrived on scene the owners refused to relinquish the dog. It was finally Matt's mother, Patrice Beaulieu, who brought the dog over to Sheila, and then Matt's wife, Jessica Beaulieu, who helped load the dog into the Animal Control van.

Matt Beaulieu stated that the dog was not vicious to other children in the house and that a previous bite that Matt had received from the dog was from playing with the dog. Matt was trying to take a stick away from the dog, and the dog missed the stick and "accidentally" bit Matt.

Don Henry responded that the decision that will be made is based on City Code, and that it is not a good idea to play aggressive games with dogs as this will encourage them to behave aggressively.

Patrice Beaulieu, who lives at the same house as the dog, states that she was alone with the kids and the dog at the house. Patrice went to the bathroom and while in the bathroom she heard a yelp from the dog and then a scream from a child. Patrice stated that about 3 minutes time elapsed from when she left the room until she could return to the room. Patrice testified that the dog had never acted aggressive towards Cerena in the past.

Matt Beaulieu stated that earlier Cerena had been trying to ride the dog like a horse and had been told not to do that, and not to get in the dog's face.

Jessica Beaulieu stated that strangers will walk in the house and she had never seen the dog act aggressive towards strangers, let alone anyone in the family. The dog has played with cats and smaller dogs and has never hurt another animal, nor has the dog ever hurt a child before. Jessica further stated that whenever the dog was outside, someone always accompanied the dog.

Don asked if they had a fenced yard, and she replied "yes".

Mary Lynn Adams then stated that she had known the dog since it was a puppy. She said that the dog plays well with everyone and is very tolerant of children

and even strangers. She said that she would trust the dog to be with anyone and that the dog is very loving.

Don Henry asked Matt Beaulieu if he had seen his niece and how did he feel about what had happened.

Matt replied that yes, he had seen his niece and that he has talked with her.

Patrice stated that the Cerena was in Matt's wedding after the bite incident occurred.

Don Henry then spoke to everyone about the responsibility of dog ownership.

Dennis Graves questions as to whether the dog is safe to go back in to the community. His opinion is that the photos of Cerena tell the whole story, and that once this happens a dog becomes unpredictable. Dennis believes that the dog falls under the definition of dangerous dog, and Dennis will uphold his own decision that the dog should not go back to the home.

Matt and Jessica Beaulieu both stated that the kids want to know if their dog is dead, or if the dog is coming home, because they have not taken the kids to go see the dog.

Jessica thinks that this (bite) is an isolated incident and states that she still trusts the dog.

Mary Lynn Adams states that the dog wags his tail the entire time that it's playing with children. She would trust the dog with any child and is willing to take the dog as her own.

Don Henry then asked the owners how could they convince him that this would never happen again.

Matt shrugged and said that he didn't think it would happen again and that someone could always be with the dog when there are others around.

Patrice said that Cerena's sister was in the room with Cerena when she was bit, but that neither girl will talk about it. Patrice wants to know why the dog yelped before the dog bit Cerena. Patrice thinks that Cerena did something to hurt the dog.

Jessica Beaulieu said that the dog can be kept in its kennel and that the dog likes his kennel that is at the house.

At 10:40 am, Don Henry concluded the meeting and stated that the decision will be made within five (5) business days.

DANGEROUS DOG HEARING - 1900 E 9TH ST N

DATE: 3-6-08

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME	ADDRESS	PHONE (S)	REASON FOR TESTIMONY
Jessica Beaulieu	2165 S Pinecrest	800-6180	Co-Owner
Mary Beaulieu	2165 S Pinecrest	800-6180	Owner
Mary Lynn Adams	1619 S Ellis	312-8467	Knew the dog
Lance Beaulieu ^{Pit}	2165 S Pinecrest	807-0585	Woe with dog
Sheila DuBey	1900 E 9th	268-8378	A CO
Drew Bessey	3303 N. Hillside	838-9623	Animal Shelter Supervisor
Maria Andrews	1900 E 9th	268-8378	A CO
Penn's Graves	1900 E 9th	268-8378	Animal Services

EXHIBIT

"E"

"Section 6.04.010 Definitions.

As used in this chapter:

"Attack" means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, cornering, chasing, or circling a person.

"Bite" means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

"Dangerous dog" means:

- (1) Any dog which has exhibited a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
- (2) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal. This shall not apply if the victim was committing a willful trespass on the property where the dog was harbored at the time of the attack or bite; or
- (3) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
- (4) Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful trespass at the time.
- (5) Any dog that poses a threat to public safety or constitutes a danger to human life or property based upon criteria described in Section 6.04.045, as determined by the Health Officer.

"Secure enclosure" means a locked pen or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, capped if there is a dog house inside or if dog can climb fence, with secure sides, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been inspected and approved by the Health Officer.

"Vicious propensity" means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation."

"Section 6.04.045 Dangerous dog-Determination--Notice and hearing-confinement or destruction.

The Health Officer may declare a dog to be dangerous based on:

- (a) The nature of any attack committed or wound inflicted by the animal;
 - (b) The past history and seriousness of any attacks or wounds inflicted by the animal;
 - (c) The potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;
 - (d) The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter, or water.
- If the Health Officer determines that the animal is dangerous, he or she will determine an appropriate disposition based on the known facts and consistent with the provisions of this

chapter. The Health Officer may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. Service by certified mail, shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the Health Officer shall send a copy of the notice to the defendant by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. The owner of a dog declared dangerous may request an administrative review of the determination by filing a written request with the Health Officer within ten days of such notification. The Health Officer will conduct a hearing within ten days of receipt of the owner's request. At such hearing testimony may be offered by the owner of the dog, the Health Officer, neighbors or other affected persons, and veterinarians concerning the vicious propensity of the dog. In making a determination, the Health Officer shall consider the factors listed in subsections (a) through (d) above. It shall be an affirmative defense that at the time of a bite, attack, or threatening behavior:

- (1) The dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or
- (2) The threat, injury, or damage was sustained by a person:
 - (i) Who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;
 - (ii) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - (iii) Who was committing or attempting to commit a crime; or
- (3) The dog was responding to pain or injury.

If the Health Officer determines that the dog is dangerous, he or she shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter, and will notify the owner of the hearing outcome within five business days. The owner may appeal the hearing outcome as provided for in Section 6.04.210. Absent such appeal, the Health Officer may pick up and cause the animal to be destroyed, or in lieu of such destruction he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046. The dog's owner shall be responsible for standard boarding charges at the Wichita Animal Shelter and veterinary expenses incurred during impoundment of the animal."

"Section 6.04.046 Dangerous dog--Failure to confine--Destruction and defenses.

(a) It is unlawful for an owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. A proper enclosure for purposes of this section means a secure enclosure as defined in Section 6.04.010, or secure confinement indoors.

REFER DATE:

ANIMAL BITE/ATTACK REPORT ORIGINAL

City of Wichita - Department of Environmental Services - Animal Services
Rabies Investigation - Telephone 268-8378 / Fax 268-83562nd
BiteVICTIM OF: BITE ☒ SCRATCH ☐ ATTACK ☐ EXPOSURE ☐PRINT CLEARLY AND IN INK ^{previous bite not reported}

NAME: Cerena Cady
 ADDRESS: HOME 5536 S. Handley 67217
 WORK _____ CITY _____ ZIP CODE _____
 TELEPHONE: HOME 871-3801 WORK 536-1101
 AGE: 5 DATE OF BIRTH: 10-6-02 PARENT/GUARDIAN: Danielle Cady

DATE OCCURRED: 2-10-08 TIME: 9 (A.M.) P.M. VIOLATION LOCATION: 2165 S. Pinecrest
 BITE DESCRIPTION: SIMPLE ☐ SEVERE ☒ PROVOKED ☒ UNPROVOKED ☐
 PART OF BODY BITTEN: left cheek TREATMENT: Wesley E.R. - 26 stitches/plastic surgery
 CIRCUMSTANCES OF BITE / ATTACK: Victim was left alone
Grandmother went to bathroom w/dog bite.

OWNER OF BITING/ATTACKING ANIMAL:

NAME: Matthew Beaulieu 1616 S. Volutsia (1st bite)
 ADDRESS: HOME 2165 S. Pinecrest 67210
 WORK _____ CITY _____ ZIP CODE _____
 TELEPHONE: HOME 806-6180 WORK _____

DESCRIPTION OF ANIMAL:

TYPE OF ANIMAL: DOG ☒ CAT ☐ SKUNK ☐ RACCOON ☐ BAT ☐ OTHER _____
 BREED: Pit Bull COLOR: Black/White MALE ☒ FEMALE ☐
 NAME: Bonz VACCINATION DATE: _____ DVM# / TELLER# _____ TAG# _____

PERSON MAKING REPORT: 152 / Victims Mother DATE: 2-10-08

ENVIRONMENTAL SERVICES DEPARTMENT USE ONLY

ADMIT TICKET #: <u>277328</u> RELEASE DATE: <u>2-20-08</u>	ANIMAL FOUND: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> CODE 1 BY ACO: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> SENT FOR DIAGNOSIS: YES <input type="checkbox"/> NO <input type="checkbox"/>
BITE/ATTACK CITATION: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> BITE/ATTACK CITATION#: _____ ISSUE DATE: _____ BY: _____	HSI INFO: DATE SUBMITTED: _____ SPEC#: _____
OTHER CITATION# & COUNTS: _____ ISSUE DATE: _____ BY: _____	REFERRAL LETTER: YES <input type="checkbox"/> NO <input type="checkbox"/> DATE _____ BY _____
DATE RELEASED: _____ BY: _____ VICTIM CONTACTED OF RELEASE: YES <input type="checkbox"/> NO <input type="checkbox"/> DATE: _____ BY: _____	2 ND BITE LETTER: YES <input type="checkbox"/> NO <input type="checkbox"/> DATE _____ BY _____

REMARKS (USE BACK IF NECESSARY): 2-10-08 #183 @ 4:21pm lonl OB to WAS faxed a
copy to WAS. Level III Dangerous Dog
2-19-08 @ 1:48pm. Hand delivered letter to owner Matthew Beaulieu

Deemed Dangerous ☐ ☐ ☒

Appeal letter received 2-26-08 NO
Hearing letter delivered 2-29-08 @ 9:29pm by #180
#142 - 3-5-08. Need to pick statement from witness for VA hearing @ 8:00pm.
#180 - delivered H.O. determination letter 7:15pm 3-12-08

Mother's Statement

Graves, Dennis

From: Danielle Cady [shadowpuppet1201@yahoo.com]

Sent: Wednesday, March 05, 2008 8:14 PM

To: Graves, Dennis

Subject: vicious dog attack court - Mr. Bonez

To whom this may concern,

This letter is in regard to the incident involving my daughter my minor Cerena Cady and the Pit bull dog by the name of Mr. Bonez. On the morning of February 10, 2008 Cerena was in the care of her grandmother Patrice Beaulieu. I was informed at 9:08am via cell phone that my child had been attacked and need emergency treatment. I instructed my mother to take my child to the Emergency Department at Wesley Medical Center for treatment. Shortly after the phone call, I drove to the hospital to meet with my child. I was informed that the laceration would need to be attended to by a plastic surgeon. By this time, I had already taken the liberty of filing a report with Animal Control for the City of Wichita.

Matthew was sent a MSM message on his cell phone of what had occurred and that he needed to call Emergency North at Wesley Medical Center. He did return the call, however he never attempted to visit Cerena at the hospital. Upon her release, Matthew or Jessica did not attempt to make contact with Cerena, until I asked them to call her. I made this request because Cerena was concerned that she was in trouble because she had to go to the hospital, and she was afraid that they were upset with her because their dog had her blood on him.

In addition to the hospital and plastic surgeon bills, I have incurred other expense due to the attack. They include out of pocket expenses on prescriptions, hospital co-pay, plastic surgeon follow up co-pay, as well as necessary medical supplies to treat the wound. This wound will require on going follow up care to reduce the appearance of the scare for 1 year. She was prescribed to use Mederma Scare Care for 12 weeks, in addition to using Fallene Total Block every morning and afternoon to avoid discoloration for 1 year. After the first year, she will need to apply the Total Block during any sun exposure for the rest of her life.

Furthermore, Cerena has had many issues resulting from the attack. They include nightmares and bedwetting. These issues have been subsiding as time passes, but they still occur with less frequency.

My concern with this matter is that Matthew and Jessica are assuming no responsibility for this matter. They have not offered to pay for any of the damages to my daughter. This is part of the responsibility of owning an animal. Should it attack, they should assume accountability. In addition to this, they have no care for the safety of their children with the dog. He has bit twice now. I don't want to receive a phone call saying that one of their children were hurt. The agreement when they went to live with my mother that when the dog attacks, he has to leave. Matthew and Jessica are not following the agreement. If the situation had been reversed, they would expect the owner to assume responsibility. I feel that it is not in their best interest to be awarded to dog in question. They have demonstrated negligence in regard to my child, in not considering the safety of their children, and in their relationship with our family. Nor do they have the means to support the dog due to their unemployment status. It is my understanding that fines have accumulated for the car of the animal. I don't see them capable of paying those fees, when they have neglected to pay of the needs of Cerena.

Overall, they are not responsible pet owners and should not be allowed to regain custody of the

3/6/2008

animal. My concern now is the safety of my nephews. The matter of financial responsibility will be handled in civil court if need be. My sole purpose for mentioning the issues is to demonstrate their lack of concern for the safety and well being of others with regard to the dog. Should this happen in the future to someone else, I feel that they will react in the same manor.

Sincerely,

Danielle Cady

I have attached photos of Cerena from the attack. There is a before and after surgery, in addition to a follow up picture. And I would also like a transcript of the hearing if at all possible seeing as I am unable to attend.

3/6/2008

Mathew Beaulibu/Owner, Harbored, or Caretaker
2165 S. Pinecrest
Wichita, KS 67210

02-20-08

RE: Attack by a Black &
White Pit Bull "Bonz"
Residing or maintained at
2165 S. Pinecrest

Incident Date: 02/10/08

Dear Mr. Beaulibu,

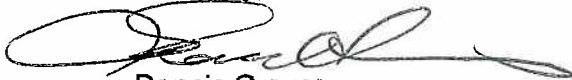
Due to the above referenced incident, the Health Officer has declared your dog to be dangerous pursuant to section 6.04.045 of the Code of the City of Wichita, and has ordered the dog to be destroyed by humane euthanasia.

I have enclosed sections of the Code of the City of Wichita pertaining to "Dangerous Dog" determinations, and your right to request a review of this determination.

You may request an administrative review of the determination by filing a written request with the Health Officer within ten days of this notification. Written requests can be mailed or delivered to 1900 E. 9th, Wichita, KS 67214

I can be reached at 268-8378 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Graves", written over a horizontal line.

Dennis Graves,
Animal Services Supervisor



Department of Environmental Health

02/29/08

Mathew Beaulieu
2165 S. Pinecrest
Wichita, KS 67210

RE: Pit Bull red female - "Bonz"

Incident Date: 02/10/08

Dear Mr. Beaulieu,

Environmental Services will be holding a Dangerous Animal Hearing regarding the above referenced animal involved in an attack and/or bite on February 10, 2008.

The hearing will be held at the:

**Department of Environmental Services
1900 East Ninth Street North, Wichita, Kansas.**

Date: March 6th, 2008

Time: 10:00 A.M.

Please make every effort to attend this hearing. If you have any questions please feel free to call me at **268-8378**. Thank you in advance.

Sincerely,

Dennis Graves,
Animal Services Supervisor

RECEIVED

"F"

MAR 26 '08

March 21, 2008

To whom it may concern,

CITY CLERK OFFICE

I am again filing an appeal on behalf of my dog, Mr. Bonz. On March 6, 2008, we attended a hearing about the decision that was made to euthenize Mr. Bonz. I am appealing the euthenization of Mr. Bonz because there are other options.

The decision to euthenize Mr. Bonz was made due to a letter that Ms. Danielle Cady submitted to you. In this letter Ms. Cady claims that Mr. Bonz "attacked" her daughter. I am disputing this claim because he was acting in defense to the pain that he suffered. It was stated at the hearing that "it did not matter what happened to the dog" although the law clearly states differently. Ms. Cady also claimed that we would not take responsibility for the dog. Again, I would like to state that we were not present at the time of the bite and therefore could not prevent the situation from happening. We deeply regret that this has happened to our neice, Ms. Cady's daughter. We have always had a wonderful relationship with the child and that has not changed. Our relationship with Ms. Cady however has changed in ways that can not be repaired, as she has been less than honest about the entire situation.

Ms. Cady also stated that Mr. Bonz is likely to bite again. Ms. Cady's daughter is more likely to get bit again by any animal due to the fact that she is not being taught proper behavior around animals. We believe that it is more likely that the child will be bit again rather than Mr. Bonz biting again.

Ms. Cady's statement has many inconsistencies from what she put in the statement to you and what she has told us and others, immediately following the incident. We have in fact seen and been responsible for the child that was bitten although we have not seen nor heard from Ms. Cady in approximately a month. Ms. Cady has not even tried to make contact with us since she was made aware that we received a copy of her statement. I dispute most of the statements that Ms. Cady made and would like a chance to dispute this at another hearing.

We will be awaiting your response.



Matthew Beaulieu
2165 S. Pinecrest
Wichita, KS 67218
(316) 806-6180

EXHIBIT

"G"



March 27, 2008

Mr. Beaulieu/Owner, Harboring, or Caretaker
2165 S. Pinecrest
Wichita, KS 67210

RE: Severe Bite by pit bull (Bonz) – Incident 2/10/2008
Residing or maintained at 2165 S. Pinecrest

Dear Mr. Beaulieu:

This letter is to inform you that your request for appeal to the "Dangerous Dog Determination" filed with the office of City Clerk has been received. Your appeal has been set for hearing before the City Council on April 8, 2008 and is scheduled on the agenda in the New Business Section.

If you have any questions, please contact me at 268-8351 or Dennis Graves, Supervisor Animal Services, at 268-8305.

Sincerely,

A handwritten signature in black ink that reads 'D. Kay Johnson'.

D. Kay Johnson
Director

C: Danielle Cady
Ed Flentje, Interim City Manager
Karen Sublett, City Clerk
Dennis Graves, Supervisor Animal Services
L0803002

1900 E. Ninth Street – Wichita, Kansas 67214
Telephone (316) 268-8351 – Fax (316) 268-8390
www.wichitago.org

Protecting People, Preserving the Environment

**City of Wichita
City Council Meeting
April 8, 2008**

TO: Mayor and City Council Members

SUBJECT: Appeal of Dangerous Dog Determination
By Matthew Beaulieu

INITIATED BY: Environmental Services

AGENDA: New Business

Recommendation: Determine if the hearing officer's order should be upheld (declaring the owned by Matthew Beaulieu to be a dangerous dog) and determine the appropriate disposition of the animal.

Background: Following an attack that occurred on February 10, 2008, animal services declared a pit bull "Bonz", owned by Mathew Beaulieu, to be a "dangerous dog". The victim of the bite was Cerena Cady, age 5. She was bitten in the face by the dog. (Photos, Exhibit A) At the time of the bite, the dog was not licensed or vaccinated. The dog was in the home of the victim's grandmother when Cerena was bitten. Mr. Beaulieu appealed the determination to a hearing officer pursuant to Section 6.04.045 of the Code of the City of Wichita. (Appeal attached hereto as Exhibit B)

Following a hearing on March 6, 2008, Hearing Officer Don Henry, found the dog to be a dangerous dog, as defined in Section 6.04.045 of the Code of the City of Wichita. Based on the evidence, Mr. Henry determined that the appropriate disposition of the animal was euthanasia. (Order attached hereto as Exhibit C, minutes of hearing attached as Exhibit D, documents presented at hearing attached as Exhibit E)

Pursuant to Section 6.04.210 of the Code of the City of Wichita, Mr. Beaulieu has appealed this determination to the City Council. (Appeal Attached hereto as Exhibit F). Notice to Mr. Beaulieu for City Council hearing was provided on March 27, 2008. (Exhibit G)

Analysis: Section 6.04.045 of the Code of the City of Wichita sets forth the circumstances in which a dog may be declared to be "dangerous". The ordinance provides that a dog may be declared dangerous based on the following criteria:

1. The nature of any attack committed or wound inflicted by the animal;
2. The past history and seriousness of any attacks or wounds inflicted by the animal;
3. The potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;
4. The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or

infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter or water.

It is an affirmative defense, that at the time of a bite, attack, or threatening behavior:

That the threat, injury... was sustained by a person who was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog.

Section 6.04.045(2) (ii) of the Code of the City of Wichita

Once a dog is determined to be “dangerous”, the hearing officer must determine the disposition of the dog. The owner may be allowed to keep the dog under certain conditions. The dog must be registered with the City. In addition, the dog must be kept in an enclosed area, the dog must be micro chipped and be sterilized by a licensed veterinarian. The owner must provide proof of liability insurance in an amount no less than one hundred thousand dollars. Additionally, a known felon cannot reside with an animal which has been previously determined to be a “dangerous dog”. Section 6.04.046 of the Code of the City of Wichita

The alternate disposition is that the dog be euthanized. Section 6.04.046 of the Code of the City of Wichita.

Based on the nature of the bite, the fact that the dog had bitten its owner previously, that the dog was not properly licensed or vaccinated and that the dog was residing in a household where children were present, the hearing officer determined that the dog should be euthanized.

Section 6.04.210 of the Code of the City of Wichita provides that the appeal of the hearing officer’s decision be to the City Council. The appeal is to be a de novo quasi-judicial proceeding.

The council may affirm, reverse or modify the order of the hearing officer finding the dog to be a dangerous dog. The council may affirm, reverse or modify the decision of the Hearing Officer that the dog be euthanized.

Financial Considerations: None

Goal Impact: Determination of hearing officer’s ruling will promote goal for safe and secure neighborhoods.

Legal Considerations: Order of hearing officer has been reviewed and approved as to form.

Recommendations/ Actions: Determine the disposition of the dog owned by Mr. Beaulieu.

Attachments: Exhibits A-F

April 8, 2008
City Council Hearing
Removal of Dangerous Structures Case Summary

Address	Cncl. Dist.	Hsng. Case Age	CLEAN Team Invlmnt?	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Board-up & Clean-up Assmnts.
620 N. Cleveland	I	16 yrs. 5 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Bulky waste and tree debris	2006 and 2007 taxes are delinquent in the amount of \$597.10.	2007 special assessment for weed cutting in the amount of \$120.03.
945 N. Wabash	I	10 yrs. 10 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Bulky waste and tree debris	2005, 2006, and 2007 taxes are delinquent in the amount of \$709.12.	None
1806 E. 12th N.	I	2 yrs. 5 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Bulky waste and tree debris	2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$729.05.	2007 special assessment for weed cutting in the amount of \$116.50 and 2008 special assessment for board-up in the amount of \$103.85.
1701 N. Grove	I	1 yr.	No	12/20/07	02/04/08	No	10/10	Open south window	Good	Current	None
2701 E. Mossman	I	3 yrs. 6 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Some broken glass and minor trash	2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$2410.73.	2008 special assessment for lot cleanup and board-up in the amount of \$1177.16 and a pending special in the amount of \$356.01.
2606 E. 15th N.	I	16 yrs. 9 mos.	No	12/20/07	02/04/08	No	10/10	Open front south door.	Bulky waste, miscellaneous debris, tree waste, and tall grass	2007 taxes are delinquent in the amount of \$148.04.	None

April 8, 2008
City Council Hearing
Removal of Dangerous Structures Case Summary

Address	Cncl. Dist.	Hsng. Case Age	CLEAN Team Invlmmt?	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Board-up & Clean-up Assmnts.
1615 N. Oliver	I	2 yrs. 8 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Bulky waste	2001, 2002, 2003, 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$5619.00. It is in tax foreclosure.	2007 special assessment for weed cutting, lot cleanup, and board-up in the amount of \$1639.69 and 2008 special assessment for lot cleanup in the amount of \$989.66.
2601 N. Spruce	I	1 yr. 3 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Fire debris	2007 taxes are delinquent in the amount of \$566.26	2007 special assessment for board-up in the amount of \$358.75 and a pending special in the amount of \$118.44.
158 N. Poplar	I	12 yrs. 8 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Tall weeds, tree waste, miscellaneous debris and an excessive amount of bulky waste on the rear deck.	2003, 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$5150.52. It is in tax foreclosure.	2007 special assessment in the amount of \$43.85 for sidewalk repair and 2008 special assessment for lot cleanup in the amount of \$1503.43.
1735 S. Main	III	8 mos.	No	12/20/07	02/04/08	No	10//10	Secure	Fire debris	2006 and 2007 taxes are delinquent in the amount of \$828.14.	Pending special in the amount of \$648.86
711 E. Harry (commercial)	III	1 yr. 4 mos.	No	12/20/07	02/04/08	No	10/10	Secure	Tree growth and scattered miscellaneous debris.	Current	None

April 8, 2008
City Council Hearing
Removal of Dangerous Structures Case Summary

Address	Cncl. Dist.	Hsng. Case Age	CLEAN Team Invlmnt?	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Board-up & Clean-up Assmnts.
1334 S. Bluffview	III	6 yrs. 11 mos.	No	12/20/07	02/04/08	Yes	10/10	Open door and windows	Tall grass, overgrown and fire debris	Current	None
839 W. 55th S.	IV	7 yrs. 1 mo.	No	12/20/07	02/04/08	No	10/10	Secure	Construction debris, trash, and tall weeds	2003, 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$5115.59.	2007 special assessment in the amount of \$296.79 for water distribution and 2008 special assessment in the amount of \$296.79 for water distribution.
2394 N. Hood	VI	1 yr. 10 mos.	No	08/02/07	10/1/07 12/03/07	Yes Yes	60 Days 60 Days	Secure	Tall weeds, bulky waste and two inoperable vehicles	Current	2007 special assessment for weed cutting in the amount of \$116.50.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 620 N. Cleveland

LEGAL DESCRIPTION: Lots 6 and 7, Cleveland Avenue, Shirks Addition to Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one and one-half story, frame dwelling about 41x22 feet in size. Vacant for at least 10 years, this structure has a cracking and shifting foundation; rotted and missing hardboard siding; sagging and badly worn composition roof, with holes and missing shingles; rotted and missing wood trim and framing members, and the front porch is dilapidated.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 620 N. Cleveland

ACTIVE FIELD FILE STARTED: October 11, 1991

NOTICE(S) ISSUED: Since October 11, 1991, numerous notice of improvements and violation notices have been issued. In 1993, the exterior of the property was repaired to meet exterior requirements for a vacant structure. Over the years, the structure has deteriorated. In 2007 the case was in Neighborhood Court because the owner failed to keep the property secured. There is an active Vacant Neglected Building case, and an Environmental case on this property.

PRE-CONDEMNATION LETTER: August 9, 2007

TAX INFORMATION: The 2006 and 2007 taxes are delinquent in the amount of \$597.10.

COST ASSESSMENTS/DATES: There is a 2007 special assessment for weed cutting in the amount of \$120.03.

PREMISE CONDITIONS: Bulky waste and tree debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Weed mowing cases as follows: May 18, 2006 in the amount of \$111.64 and May 26, 2007 in the amount of \$114.99.

POLICE REPORT: From May 13, 1997 through October 23, 2001 there have been two reported police incidents at this location including other miscellaneous offenses and suspicious character other.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made. The rear roof continues to collapse. The structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no representative in attendance for this property.

Board Member Coonrod made a motion to refer the property to the City Council with a recommendation of demolition with ten days to begin demolition and ten days to complete the demolition. Board Member Willenberg seconded the motion. The motion passed.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 945 N. Wabash

LEGAL DESCRIPTION: Lots 1 and 3, on Wabash Avenue, Moores Addition to the City of Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 50x24 feet in size. Vacant for at least 6 years, this structure has cracking basement walls; cracked transite siding; sagging and badly worn composition roof, with holes and missing shingles; rotted and collapsing front porch; rotted and missing wood trim; rotted framing members; and the 15x20 foot accessory structure is deteriorating.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 945 N. Wabash

ACTIVE FIELD FILE STARTED: May 22, 1997

NOTICE(S) ISSUED: Since May 22, 1997, several notice of improvements and violation notices, have been issued. The owner passed away in 1997 and his son attempted to make repairs to the property. In 2007, a roofing permit was obtained by the owner, and the roof was stripped in preparation for re-roofing. The re-roof was not started and the permit expired. There is an active Environmental case on this property.

PRE-CONDEMNATION LETTER: July 3, 2007

TAX INFORMATION: The 2005, 2006, and 2007 taxes are delinquent in the amount of \$709.12.

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Bulky waste and tree debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: None

POLICE REPORT: On September 17, 2004 one reported police incident of larceny b other.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no one present on behalf of this property.

Board Member Hentzen made a motion to refer the property to the City Council for

condemnation with ten days to begin razing the building and ten days to complete the demolition. Board Member Coonrod seconded the motion. The motion carried without opposition.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1806 E. 12th N.

LEGAL DESCRIPTION: The East 50 feet of Lot 53, 54, 55 and 56, on Kansas Avenue, Rosenthals 2nd Addition to the City of Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 22x26 feet in size. Vacant and open, this structure has rotted and missing wood lap siding; deteriorated composition roof with missing shingles; dilapidated front porch; rotted and missing wood trim; exposed, rotted framing members; and the two 10x8 accessory structures are deteriorating.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 1806 E. 12th N.

ACTIVE FIELD FILE STARTED: June 18, 1991

NOTICE(S) ISSUED: Since October 11, 2005, several notices of improvements and violation notices have been issued. There is an active Environmental case on this property and Central Inspection staff has completed two emergency board-ups on this property at a cost of \$311.47.

PRE-CONDEMNATION LETTER: August 28, 2007

TAX INFORMATION: The 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$729.05.

COST ASSESSMENTS/DATES: There is a 2007 special assessment for weed cutting in the amount of \$116.50 and a 2008 special assessment for board-up in the amount of \$103.85.

PREMISE CONDITIONS: Bulky waste and tree debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Weed mowing cases as follows: August 1, 2006 in the amount of \$111.64 and April 5, 2007 in the amount of \$114.99.

POLICE REPORT: From November 18, 1990 through June 25, 2005 there have been five reported police incidents at this location including other destruction of property, sexual battery, burglary residence no force day, lost miscellaneous property and miscellaneous report.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing No one attended the hearing as a representative for this property.

Board Member Banuelos made a motion to send the property before the City Council with a recommendation of demolition with ten days to begin the wrecking of the building and ten days to complete the wrecking. Board Member Youle seconded the motion. The motion was approved.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1701 N. Grove

LEGAL DESCRIPTION: Lots 39, 41, 43 and 45, on Tyler, now Grove Avenue, Logan Addition to Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 26x40 feet in size. Vacant for at least a year, this structure has collapsing and shifting basement walls; missing and broken siding; sagging composition roof; deteriorating front porch; collapsing rear porch; and the 8x14 foot accessory structure is collapsing.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.
- E. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a

public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 1701 N. Grove

ACTIVE FIELD FILE STARTED: March 21, 2007

NOTICE(S) ISSUED: Since March 21, 2007, a notice of improvement and violation notice have been issued. There is an active Vacant Neglected Building case on this property.

PRE-CONDEMNATION LETTER: June 8, 2007

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Good

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: None

POLICE REPORT: From March 15, 2003 through August 8, 2005 there have been five reported police incidents at this location including destruction of property domestic violence, miscellaneous report, (two) destruction to auto, and larceny b all other.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made. Open south window.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing

there was no representative in attendance on behalf of this property.

Board Member Harder made a motion to recommend the property to the City Council for demolition with ten days to begin the removal of the structure(s) and ten days to complete the wrecking. Board Member Willenberg seconded the motion. The motion was approved.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 2701 E. Mossman

LEGAL DESCRIPTION: The East 13 feet of lot 25, all of Lot 27 and the West 12 feet of Lot 29, Alices Subdivision of Lots 16, 17, 18, 19 and 20, in Mossmans Addition to Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 38x34 feet in size. Vacant and open, this structure has a cracking and shifting concrete foundation; rotted and missing siding; sagging and badly worn composition roof with holes and missing shingles; rotted wood trim; and the 10x15 foot accessory structure is deteriorating.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 2701 E. Mossman

ACTIVE FIELD FILE STARTED: September 22, 2004

NOTICE(S) ISSUED: Since September 22, 2004, a notice of improvement and several violation notices have been issued. Central Inspection staff has completed an emergency board-up on this property at a cost of \$356.01.

PRE-CONDEMNATION LETTER: November 7, 2007

TAX INFORMATION: The 2004, 2005, 2006 and 2007 taxes are delinquent in the amount of \$2410.73.

COST ASSESSMENTS/DATES: There is a 2008 special assessment for lot cleanup and board-up in the amount of \$1177.16 and a pending special in the amount of \$356.01.

PREMISE CONDITIONS: Some broken glass and minor trash.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Lot cleanup case on January 20, 2006 in the amount of \$911.48.

POLICE REPORT: From April 5, 1992 through July 25, 2007 there have been sixteen reported police incidents at this location including (six) batteries, draw deadly weapon, (two) disorderly conduct other, simple assault other, other destruction of property, disturb the peace phone calls domestic violence, miscellaneous report, battery domestic violence and (two) miscellaneous reports

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no representative for this property attending the hearing.

Board Member Coonrod made a motion to refer the property to City Council with a recommendation of demolition; ten days to begin wrecking the structure, and ten days to complete the removal. Board Member Harder seconded the motion. The motion was passed unanimously.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 2606 E. 15th N

LEGAL DESCRIPTION: The West 74 feet of Lots 2, 4, 6 and 8, on Schiller Avenue, now Green Street, Fairmount Orchard Addition to Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A two story frame dwelling about 26x43 feet in size. Vacant for at least a year, this structure has a shifting and cracking concrete block foundation; deteriorated and missing composition siding; badly worn composition roof with missing shingles; deteriorating front porch; and rotted wood trim.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 2606 E. 15th N

ACTIVE FIELD FILE STARTED: June 18, 1991

NOTICE(S) ISSUED: Since June 18, 1991 numerous notice of improvements and violation notices have been issued. Until late 2006, this structure was owner occupied. The owner was elderly and bedridden. The owner has since passed away and the property is now vacant.

PRE-CONDEMNATION LETTER: June 19, 2007

TAX INFORMATION: The 2007 taxes are delinquent in the amount of \$148.04.

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Bulky waste, miscellaneous debris, tree waste and tall grass.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: None

POLICE REPORT: On February 27, 2001 one reported police incident of suspicious character other.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made. There is an open front south door.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no one present to represent this property.

Board Member Harder made a motion to send the property before the City Council with a recommendation of demolition, with ten days to begin removal of the structure and ten days to complete the demolition. Board Member Willenberg seconded the motion. The motion carried.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1615 N. Oliver

LEGAL DESCRIPTION: Lot 3, Block 2, Ken Mar Addition to Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 41x29 feet in size. Vacant for at least two years, this structure has a cracking concrete foundation; shifting south brick wall; fire damaged roof; fire damaged framing members; and deteriorated and missing wood siding.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants,

or children.

D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 1615 N. Oliver

ACTIVE FIELD FILE STARTED: July 20, 2005

NOTICE(S) ISSUED: Since July 20, 2005, a notice of improvement and several violation notices have been issued. Central Inspection staff has completed three emergency board-ups on this property at a cost of \$812.77. There is an active Vacant Neglected Building case on this property and it has been the subject of Neighborhood court.

PRE-CONDEMNATION LETTER: September 6, 2007

TAX INFORMATION: The 2001, 2002, 2003, 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$5619.00. It is in tax foreclosure.

COST ASSESSMENTS/DATES: There is a 2007 special assessment for weed cutting, lot cleanup, and board-up in the amount of \$1639.69 and a 2008 special assessment for lot cleanup in the amount of \$989.66.

PREMISE CONDITIONS: Bulky waste

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Weed mowing cases as follows: July 28, 2005 for the amount of \$111.64 and November 2, 2006 in the amount of \$114.99.

POLICE REPORT: There have been seven reported police incidents at this location including battery, aggravated assault firearms shots fired, runaway, other destruction of property, (two) miscellaneous report and arson dwelling.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing no one was present to represent this property.

Board Member Coonrod made a motion to refer the property to the City Council for condemnation, with ten days to start demolition and ten days to complete the razing of the structure. Board Member Youle seconded the motion. The motion was approved unanimously by the Board.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 2601 N. Spruce

LEGAL DESCRIPTION: Lot 20, Block 4, Ridgecrest Addition to the City of Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 34x38 feet in size. Vacant for at least 6 months, this structure has cracking foundation; missing and fire damaged siding; fire damaged roof with missing shingles; deteriorated front porch; and fire damaged wood trim and framing members.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human

habitation.

C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.

D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 2601 N. Spruce

ACTIVE FIELD FILE STARTED: December 13, 2006

NOTICE(S) ISSUED: Since December 13, 2006, notice of improvement and several violation notices have been issued. Central Inspection staff has completed two emergency board-ups on this property at a cost of \$462.12.

PRE-CONDEMNATION LETTER: September 11, 2007

TAX INFORMATION: The 2007 taxes are delinquent in the amount of \$566.26.

COST ASSESSMENTS/DATES: There is a 2007 special assessment for board-up in the amount of \$358.75 and a pending special in the amount of \$118.44.

PREMISE CONDITIONS: Fire debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: None

POLICE REPORT: There have been six reported police incidents at this location including attempt to locate person/s, resist arrest, unlawful possession of marijuana, larceny b all other, unlawful possession of marijuana and revocation suspended drivers license.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no representative for this property at the hearing.

Board Member Harder made a motion to refer the property to the City Council, recommending condemnation, with ten days to initiate the removal of the structure and ten days to finish the demolition. The motion passed without opposition.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 158 N. Poplar

LEGAL DESCRIPTION: Lot 1 and the North Half of Lot 3, Poplar Avenue, Oliver's Subdivision of Block 5, Chautauqua Addition, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 48x26 feet in size. Vacant for at least 8 years, this structure has a shifting and cracking foundation; rotted siding; and sagging and badly worn composition roof, with holes.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 158 N. Poplar

ACTIVE FIELD FILE STARTED: July 14, 1995

NOTICE(S) ISSUED: Since July 14, 1995, several notice of improvements and numerous violation notices have been issued. This property was in Neighborhood Court from late 2002 until early 2004. The property has remained vacant and secure. There is an active Vacant Neglected Building case on this property.

PRE-CONDEMNATION LETTER: September 24, 2007

TAX INFORMATION: The 2003, 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$5150.52. It is in tax foreclosure.

COST ASSESSMENTS/DATES: There is a 2007 special assessment in the amount of \$43.85 for sidewalk repair and 2008 special assessment for lot cleanup in the amount of

\$1503.43.

PREMISE CONDITIONS: Tall weeds, tree waste, miscellaneous debris and an excessive amount of bulky waste on the rear deck.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Weed mowing cases on June 28, 2005 in the amount of \$111.64 and September 17, 2005 in the amount of \$114.99. Lot cleanup case on November 12, 2007 in the amount of \$1273.96.

POLICE REPORT: On September 5, 2004 one police incident of larceny b auto accessories has been reported at this location.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing no representative for this property was in attendance at the hearing.

Board Member Harder made a motion to send the property before the City Council with a recommendation of demolition, with ten days to start demolition and ten days to complete the demolition. Board Member Willenberg seconded the motion. The motion carried.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 3

ADDRESS: 1735 S. Main

LEGAL DESCRIPTION: Lots 78 and 80, on Main Street, English's Sixth Addition to the City of Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 24x34 feet in size. Vacant for at least 3 months, this structure has fire damaged siding; smoke damaged composition roof with missing shingles; smoke damaged front porch; deteriorated rear porch; fire damaged wood trim and framing members; and the 18x21 accessory structure has been damaged by fire.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and

unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 1735 S. Main

ACTIVE FIELD FILE STARTED: August 7, 2007

NOTICE(S) ISSUED: Since August 7, 2007, a notice of improvement and violation notice have been issued. There is an active Environmental case on this property and Central Inspection staff has completed an emergency board-up on this property for a cost of \$648.86.

PRE-CONDEMNATION LETTER: August 28, 2007

TAX INFORMATION: The 2006 and 2007 taxes are delinquent in the amount of \$828.14.

COST ASSESSMENTS/DATES: There is a pending special in the amount of \$648.86.

PREMISE CONDITIONS: Fire debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Lot cleanup case on February 15, 2008 in the amount of \$617.38.

POLICE REPORT: From October 11, 1997 through August 11, 2007 there have been eighteen reported police incidents including battery, (four) miscellaneous report, miscellaneous officers, (two) unlawful possession of meth, (two) auto theft not recovered, disorderly conduct other, violation of district court order, possession of paraphernalia, aggravated robbery residence, other weapons violations, unlawful possession of marijuana, burglary residence and arson dwelling.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing no representative appeared on behalf of this property.

Board Member Youle made a motion to submit the property to the City Council with a recommendation of demolition, with ten days to begin the wrecking and ten days to complete the removal of the structure. Board Member Harder seconded the motion. The motion was approved by the Board.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 3

ADDRESS: 711 E. Harry

LEGAL DESCRIPTION: Lot 6, Harry Street Subdivison of Lot 2 and 4, Block 3, Allen and Smith's Addition to Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one and one-half story concrete block commercial structure about 25x50 feet in size. Vacant and open, this structure has a badly worn roof with holes; and fire damaged structural members.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those which show thirty-three percent or more of damage or deterioration of the supporting members or fifty percent or more of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- B. Those, which have improperly distributed loads upon the floors or roofs or in, which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- C. Those, which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- D. Those having light, air, and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 711 E. Harry

ACTIVE FIELD FILE STARTED: November 13, 2006

NOTICE(S) ISSUED: Since November 13, 2006, a notice of violation has been issued.

PRE-CONDEMNATION LETTER: September 14, 2007

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Tree growth and scattered miscellaneous debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: None

POLICE REPORT: None

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no one in attendance appearing on behalf of this property.

Board Member Harder made a motion to submit the property to the City Council for demolition, with ten days to begin razing the structure and ten days to finish the demolition. Board Member Willenberg seconded the motion. The motion was unanimously approved.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 3

ADDRESS: 1334 S. Bluffview

LEGAL DESCRIPTION: Lot 3, Block G, Hilltop Manor Subdivision, a replat of part of Hilltop Manor and Hilltop Manor Second, City of Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 27x75 feet in size. Vacant for at least a year, this structure has a cracking foundation; missing and damaged metal siding; sagging and badly worn composition roof with missing shingles; and rotted

and missing soffit and fascia.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

E. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 1334 S. Bluffview

ACTIVE FIELD FILE STARTED: April 17, 2001

NOTICE(S) ISSUED: Since April 17, 2001, several notice of improvements and numerous violation notices have been issued. Central Inspection staff has completed an emergency board-up on this property at a cost of \$138.96.

PRE-CONDEMNATION LETTER: May 10, 2007

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Tall grass, overgrown and fire debris.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: Weed mowing cases on June 22, 2005 in the amount of \$111.64 and April 5, 2007 in the amount of \$114.99.

POLICE REPORT: From August 21, 1993 through June 24, 2001 there have been five reported police incidents at this location including drive under influence, (two) miscellaneous report, possession of paraphernalia and trespass.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure has open door and windows. This structure was fire damaged on March 16, 2008.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing this property was represented by a letter from Janice Jorns, attorney for the estate of the deceased owners, Ella and Gene Tregellas.

The estate had been in litigation and it was only recently that the matter has been resolved. Mr. Roger Hatfield has been appointed as the executor of the estate. Mr. Hatfield is currently trying to negotiate the sale or transfer of the property to an interested organization. In the meantime, Mr. Hatfield requested that the Board grant an extension of at least six weeks in order that he might pursue the possibility of selling the property. Board Member Willenberg made a motion to present the property to the City Council with a recommendation of demolition, with ten days to begin the wrecking and ten days to complete the demolition. Board Member Harder seconded the motion. The motion was approved.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 4

ADDRESS: 839 W. 55th S.

LEGAL DESCRIPTION: The West One Half of the West One Acre of the East Two Acres of the North Seven One-Half Acres of the Northwest Quarter of the Northwest Quarter of Section 29, Township 28 South, Range One East of the Sixth P.M., Sedgwick County,

Kansas

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 33x31 feet in size. Vacant for at least 8 months, this structure has rotted and missing hardboard siding; badly worn composition roof with holes and missing shingles; rotted and missing trim; rotted framing members; and the two accessory structures are deteriorating.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.

D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 1

ADDRESS: 839 W. 55th S.

ACTIVE FIELD FILE STARTED: February 13, 2001

NOTICE(S) ISSUED: Since February 13, 2001, several notice of improvements and violation notices have been issued.

PRE-CONDEMNATION LETTER: July 13, 2007

TAX INFORMATION: The 2003, 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$5115.59.

COST ASSESSMENTS/DATES: There is a 2007 special assessment in the amount of \$296.79 for water distribution and 2008 special assessment in the amount of \$296.79 for water distribution.

PREMISE CONDITIONS: Construction debris, trash and tall weeds.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

NUISANCE/NEGLECTED REPORT: None

POLICE REPORT: From April 12, 2000 through June 5, 2007 there have been eleven reported police incidents at this location including (two) unlawful possession of marijuana, battery, (two) disturb peace phone calls domestic violence, destruction to auto, non-injury accident under \$1000, miscellaneous report, burglary residence no force night, restricted zone no parking zone, and burglary non-residence.

FORMAL CONDEMNATION ACTION INITIATED: December 20, 2007

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the February 4, 2008 BCSA hearing there was no representative present at the hearing.

Board Member Youle made a motion to refer the property to the City Council with a recommendation of demolition, with ten days to initiate the razing of the structure and ten days to finish the demolition. Board Member Harder seconded the motion. The motion was approved.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: March 19, 2008

CDM SUMMARY

COUNCIL DISTRICT # 6

ADDRESS: 2394 North Hood

LEGAL DESCRIPTION: Lots 1 and 3 on Guthrie Avenue, now Hood, River Bend Addition to the City of Wichita, Sedgwick County, Kansas

DESCRIPTION OF STRUCTURE: A one-story frame dwelling about 22x42 feet ins size. Vacant since May 19, 2006, this structure has missing block foundation wall; rotted and missing composition siding; badly worn composition roof; crumbling front steps; rotted wood trim; and the 20x22 accessory garage is deteriorating.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

Superintendent of Central Inspection
Enforcing Officer

Date

DATE: March 19, 2008

BCSA GROUP # 12

ADDRESS: 2394 North Hood

ACTIVE FIELD FILE STARTED: May 19, 2006

NOTICE(S) ISSUED: Since May 19, 2006 a notice of improvement and several violation notices have been issued. Owner is out of state. Owner's father has been in contact with staff.

PRE-CONDEMNATION LETTER: March 2, 2007

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: 2007 special assessment for weed cutting in the amount of \$116.50.

PREMISE CONDITIONS: Tall weeds, bulky waste and two inoperable vehicles.

CLEAN TEAM/COMMUNITY POLICING REPORT: None

HEALTH REPORT: Weed mowing cases as follows: July 9, 2005 in the amount of \$111.64, March 27, 2006 in the amount of \$111.64, June 6, 2006 in the amount of \$111.64 and September 8, 2006 in the amount of \$111.64.

POLICE REPORT: From October 12, 1998 through June 28, 2003 there have been five reported police incidents including battery, unlawful possession narcotics, other miscellaneous offenses, battery domestic violence and criminal contempt domestic violence.

FORMAL CONDEMNATION ACTION INITIATED: August 2, 2007

RECENT DEVELOPMENTS: No repairs have been made. The structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the October 1, 2007 BCSA hearing, William Abbott, father of the owner, Shawn Abbott, represented this property in his son's behalf. Shawn Abbott also provided a letter to the Board.

The active file was initiated on this property in May of 2006. The taxes are current. A Pre-condemnation letter was issued on March 2, 2007. The owner lives out of state; however, the owner's father has been in contact with Central Inspection staff. There are two special assessments for weed mowing. There is a small amount of brush and some stored construction material on the property. It appears that some repairs have been made.

Mr. William Abbott addressed the Board on behalf of his son, Shawn. Mr. Abbott told the Board that his son was currently working construction in California, living in his motor home on the project site. Because of his son's present living arrangement, Mr. Abbott said

that his son was not able to receive his mail. Further, Mr. Abbott said that his son's cell phone does not always pick up a signal at the site where he is staying. Although Shawn Abbott's communication has been limited due to the circumstances Mr. Abbott said that he had kept in touch with his son, and felt certain that they would be able to make the required repairs to the property.

A portion of the tree limbs hanging onto the lot, Mr. Abbott explained, were limbs from trees that were in the City right-of-way. He said that he had contacted the Landscape and Forestry Division of the Park Department to have the limbs trimmed. The structure has been painted, but the work that had begun in April had been temporarily halted due to rainy weather.

Vice Chairman Youle requested that the Board take a moment to read the letter submitted by Mr. Shawn Abbott.

Board Member Harder asked what the time frame would be for making the exterior repairs. Mr. Abbott said that the exterior work could be completed by December 1, 2007. Mr. Abbott went on to tell the Board that his son had decided to put egress windows in the basement; a portion of the basement wall had been removed in order to install the window well and egress window. Unfortunately, Mr. Shawn Abbott failed to obtain the required permit for such work. Because of the younger Mr. Abbott's inability to find work locally, he was forced to accept a job out of state to make the money he needed to complete the repairs to the structure. Mr. Abbott said that the openings for the egress windows are have been secured with boards. Mr. Abbott and his wife plan to continue to help their son get the structure repaired.

Board Member Coonrod made a motion to allow sixty days to complete the exterior repairs to the structure or reappear before the Board to report the status of the repairs, maintaining the site in a clean and secure condition. Board Member Banuelos seconded the motion. The motion carried without opposition.

At the December 3, 2007 BCSA hearing William Abbott represented this property on behalf of his son, who is currently out of the state.

The property was brought before the Board for the first time at the October 1, 2007, hearing. At that time a motion was made and approved to allow sixty days to finish the exterior repairs or reappear before the Board to report the status of the repairs. The 2007 taxes are due in the amount of \$734.40; there is a 2007 special assessment in the amount of \$116.50 against the property for weed mowing. On the last site inspection, Ms. Legge reported that the painting was in progress, and Mr. Abbott and another individual were in the process of cleaning up the site.

Mr. Abbott explained to the Board that his son had originally planned to be home by November 1, 2007, but he was in an area in California where there had been widespread

fires, preventing his son from leaving the area. Mr. Abbott said that he had been doing as much work on the property as possible in order to finish it; however, he is not physically able to do all of the work.

Board Member Harder made a motion to grant sixty days to complete the exterior repairs or the property would automatically be referred to the City Council for demolition action, with ten days to begin demolition and ten days to complete demolition. Board Member Youle seconded the motion. The motion was approved, unanimously.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

**City of Wichita
City Council Meeting
April 8, 2008**

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structure
(District I, III, IV, VI)

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolution.

Background: On February 26, 2008, a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted a resolution providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on April 8, 2008.

Analysis: On February 4, 2008 the Board of Code Standards and Appeals (BCSA) held a hearing on the fourteen properties listed below:

<u>Property Address</u>	<u>Council District</u>
a. 620 North Cleveland	I
b. 945 North Wabash	I
c. 1806 East 12th Street North	I
d. 1701 North Grove	I
e. 2701 East Mossman	I
f. 2606 East 15th Street North	I
g. 1615 North Oliver	I
h. 2601 North Spruce	I
i. 158 North Poplar	I
j. 1735 South Main	III
k. 711 East Harry	III
l. 1334 South Bluffview	III
m. 839 West 55th Street South	IV
n. 2394 N. Hood	VI

Detailed information/analysis concerning this property are included in the attachments.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on February 29, 2008 and March 7, 2008. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolutions declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of April 8, 2008; (2) the structure has been secured as of April 8, 2008 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of April 8, 2008, and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

Attachments: Case Summary, Summary, and Follow-Up History.

City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council

SUBJECT: Contract for Providing Background Investigations

INITIATED BY: Human Resources Department

AGENDA: New Business

Recommendation: Approve the Contract.

Background: The City of Wichita uses the services of a private contractor for background investigations of applicants and employees. The contract of the current contractor, American DataBank, expires on April 30, 2008.

On January 10, 2008, a Request for Proposals was issued. Twenty-five proposals were received. Negotiations with the top proposer, DDS Employee Screening Services, were successful.

Analysis: The investigations will include nation-wide criminal and driving records, sex offender registries, and in some cases, education, professional certifications, and credit checks. Under the contract, most investigations will be completed within 24 to 72 hours.

Financial Considerations: The new contract amount is \$50,755, based on projected numbers of investigations, which is \$14,943 less than the previous contract. Although the new contract contains more investigation items, technology advancements have reduced the cost. The contract lists, and the City will be billed, by individual investigation items.

Goal Impact: Internal Perspectives. Accurate, timely, and affordable background investigations increase productivity by streamlining the hiring process.

Legal Considerations: The Law Department has reviewed and approved the contract as to form. The contract will be for one year with annual renewable options for two (2) years.

Recommendations/Actions: It is recommended that the City Council approve this contract and authorize the necessary signatures.

RECEIVED

MAR 26 '08

March 21, 2008

To whom it may concern,

CITY CLERK OFFICE

I am again filing an appeal on behalf of my dog, Mr. Bonz. On March 6, 2008, we attended a hearing about the decision that was made to euthenize Mr. Bonz. I am appealing the euthenization of Mr. Bonz because there are other options.

The decision to euthenize Mr. Bonz was made due to a letter that Ms. Danielle Cady submitted to you. In this letter Ms. Cady claims that Mr. Bonz "attacked" her daughter. I am disputing this claim because he was acting in defense to the pain that he suffered. It was stated at the hearing that "it did not matter what happened to the dog" although the law clearly states differently. Ms. Cady also claimed that we would not take responsibility for the dog. Again, I would like to state that we were not present at the time of the bite and therefore could not prevent the situation from happening. We deeply regret that this has happened to our neice, Ms. Cady's daughter. We have always had a wonderful relationship with the child and that has not changed. Our relationship with Ms. Cady however has changed in ways that can not be repaired, as she has been less than honest about the entire situation.

Ms. Cady also stated that Mr. Bonz is likely to bite again. Ms. Cady's daughter is more likely to get bit again by any animal due to the fact that she is not being taught proper behavior around animals. We believe that it is more likely that the child will be bit again rather than Mr. Bonz biting again.

Ms. Cady's statement has many inconsistencies from what she put in the statement to you and what she has told us and others, immediately following the incident. We have in fact seen and been responsible for the child that was bitten although we have not seen nor heard from Ms. Cady in approximately a month. Ms. Cady has not even tried to make contact with us since she was made aware that we received a copy of her statement. I dispute most of the statements that Ms. Cady made and would like a chance to dispute this at another hearing.

We will be awaiting your response.



Matthew Beaulieu
2165 S. Pinecrest
Wichita, KS 67218
(316) 806-6180

City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council Members

SUBJECT: Design Agreement: Kellogg, from 1400' east of 151st St. West to ½ Mile west of Maize (District V)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the Design Project and Consultant Engineering Agreement.

Background: The 2007-2016 Capital Improvement Program (CIP) includes funding to design West Kellogg improvements. On June 10, 1997, the City Council approved a contract with Professional Engineering Consultants (PEC) to begin preliminary design work for a Kellogg Freeway, from Mid-Continent Road to 151st Street West. The City Council subsequently approved supplemental agreements with PEC to design the Kellogg Interchanges at Maize and Tyler, and the South Frontage road from 119th St. West to 135th St. West.. A Supplemental Agreement Number 4 has been prepared to continue the design of the Kellogg Freeway to 1400 feet east of 151st St. West.

Public Works staff is recommending that P.E.C. be awarded the contract for this design through this Supplemental Agreement as they presently have the design work for the south side frontage road, from 119th to 135th Streets West, which includes most of the length of this project. Doing this should reduce survey costs and ensure consistent designs for both projects.

Analysis: The design concept is a six-lane freeway with interchanges at 119th St. West and 135th St. West.

Financial Considerations: The CIP budget is \$4,000,000 with the total paid by the Local Sales Tax. The PEC design fee is \$3,464,469 for the freeway and \$245,003 paid by the Water Utility to design waterlines.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing a safe and efficient transportation system. It addresses the Economic and Affordable Living goal by providing a public improvement which reduces the cost of transportation. It also improves the air quality of the region whereby the goal of a Safe and Secure Community is met by improving environmental health.

Legal Considerations: The authorizing Ordinance and Agreement have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the design project, approve the Agreement, place the Ordinance on first reading, and authorize the signing of State/Federal agreements as required.

132019

First Published in the Wichita Eagle

ORDINANCE NO. _____

AN ORDINANCE DECLARING **KELLOGG, FROM 1,400 FEET EAST OF 151ST ST. WEST TO ONE HALF MILE WEST OF MAIZE (472-84707)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That **Kellogg, from 1,400 feet east of 151st St. West to one half mile west of Maize (472-84707)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **Kellogg, from 1,400 feet east of 151st St. West to one half mile west of Maize (472-84707)** as a main trafficway in the following particulars:

The design of a roadway as necessary for a major traffic facility.

SECTION 3. The cost of the above described improvement is estimated to be **Four Million Dollars (\$4,000,000)** exclusive of the cost of interest on borrowed money, with the total paid by City of Wichita Local Sales Tax Funds. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2008.

CARL BREWER, MAYOR


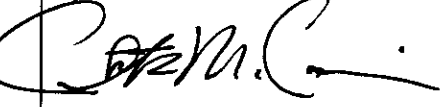

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

GARY REBENSTORF, DIRECTOR OF LAW

CAPITAL IMPROVEMENT PROJECT AUTHORIZATION CITY OF WICHITA					USE: To Initiate Project <input checked="checked" type="checkbox"/> X To Revise Project <input type="checkbox"/>	1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.														
1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 3/24/2008	4. Project Description & Location Kellogg Freeway Design, 151st St West - Maize																	
5. CIP Project Number F-150402	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date																	
9. Estimated Start Date As Required	10. Estimated Completion Date As Required		11. Project Revised																	
12. Project Cost Estimate					12A.															
ITEM	GO	SA	LST	TOTAL	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%; text-align: center;">Yes</th> <th style="width: 20%; text-align: center;">No</th> </tr> </thead> <tbody> <tr> <td>Platting Required</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Lot Split</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Petition</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Ordered by WCC</td> <td style="text-align: center;"><input checked="checked" type="checkbox"/> X</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		Yes	No	Platting Required	<input type="checkbox"/>	<input type="checkbox"/>	Lot Split	<input type="checkbox"/>	<input type="checkbox"/>	Petition	<input type="checkbox"/>	<input type="checkbox"/>	Ordered by WCC	<input checked="checked" type="checkbox"/> X	<input type="checkbox"/>
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Right of Way					Remarks: Design Only 472-84707															
Paving, grading & const.			\$4,000,000	\$4,000,000																
Bridge & Culverts																				
Drainage																				
Sanitary Sewer																				
Sidewalk																				
Water																				
Traffic Signals																				
Totals			\$4,000,000	\$4,000,000																
Total CIP Amount Budgeted																				
Total Prelim. Estimate																				
13. Recommendation: Approve the Project, Ordinance, and Design Agreement																				
Division Head 	Department Head 		Budget Officer 	City Manager																
Date	Date		Date																	

SUPPLEMENTAL AGREEMENT NO. 4
to the
AGREEMENT FOR ENGINEERING SERVICES DATED JUNE 10, 1997
between
THE CITY OF WICHITA, KANSAS
Party of the First Part, hereinafter called the
"CITY"
and
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
Party of the Second Part, hereinafter called the
"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a contract between the two parties covering Engineering Services to be provided by the ENGINEER for the improvement of West Kellogg from 151st Street West to Mid-Continent Interchange, called the AGREEMENT, and

WHEREAS, the CITY desires to proceed with preparation of Final Plans, Specifications and Estimates for the portion of the PROJECT from approximately 1400 feet east of 151st Street West to one half mile west of Maize Road (2.3 miles), hereinafter called the FINAL PLANS PROJECT - PART 2 (FPP-2), and

WHEREAS, paragraph IV.B of the AGREEMENT provides that the CITY may contract for additional work on the basis of a duly entered into Supplemental Agreement,

NOW THEREFORE, the parties hereto mutually agree as follows:

1. ARTICLE I of AGREEMENT, SCOPE OF SERVICES - revise to read:

"....., and to perform the PROJECT tasks for FINAL PLANS PROJECT - PART 2 as outlined in Exhibit A2, Scope of Services Statement."

2. ARTICLE IV of AGREEMENT, Payment Provisions - add to paragraph A:

Payment to the ENGINEER for the performance of the professional services required by this Supplemental Agreement No. 4 shall be on the basis of separate, not-to-exceed fees, based on the ENGINEER'S actual costs and may be less than the estimated amount.

- i. Basic Services: "Basic Services" shall be as defined in Exhibit A2.

Total payments to the ENGINEER for the preparation of the work associated with Supplemental Agreement No. 4, "Basic Services", shall include the actual costs accruing in the performance of the professional services as outlined in this Supplemental Agreement which are estimated to amount to **\$3,151,824.00** plus a fixed fee for profit which shall be twelve (12) percent of the ENGINEER'S actual costs so that the total payments shall not exceed the sum of **\$3,464,469.00** and shall generally be in accordance with the estimate provided as Exhibit C. The Overhead Factor as defined in Section IV.A. of the AGREEMENT will be based upon an annual KDOT Audited Overhead Factor (128.00 estimated), and actual costs adjusted accordingly, for the work required by this Supplemental Agreement. Profit shall not be applied to subcontractors, i.e., landscape architectural services, geotechnical services, etc.; or to direct expenses such as plan reproduction, CAD system services, etc.

During the progress of the work covered by this Supplemental Agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indication progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of the costs accrued to the PROJECT plus a fee for profit based upon a fixed percentage of the ENGINEER's actual costs. Accumulated partial payment for the PROJECT shall also be based on milestones in Exhibit A2 and shall not exceed ninety-five percent (95%) of the total fees for services prior to satisfactory completion of all work required by this Supplemental Agreement.

Accumulated partial payments shall not exceed **\$1,905,457** (fifty-five percent of the maximum fee payment amount) until Field Check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed **\$2,944,798** (eighty-five percent of the maximum fee payment amount) until Office Check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed **\$3,291,245** (ninety-five percent of the maximum fee payment amount) until satisfactory completion of all work required by this Supplemental Agreement.

ii. Water Main Improvements (as defined in Exhibit A2):

Payment for the design and plan preparation for this infrastructure element shall be on the basis of the ENGINEER'S costs, which are estimated to be **\$220,554.00** plus a fixed fee for profit which shall be twelve (12) percent of the ENGINEER'S actual costs so that the total payments shall not exceed the sum of **\$245,003.00** and shall generally be in accordance with the estimate provided as Exhibit C2. Billings for this work will be maintained separate and apart from other items included in Supplemental Agreement No. 4.

3. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
 - a. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
 - b. Additional design services not covered by the scope of this agreement.
 - c. Construction staking, material testing, inspection and administration related to the PROJECT.
 - d. A major change in the scope of services for the PROJECT. If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for the performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.
4. Except as otherwise noted herein, all terms and conditions set forth in the original AGREEMENT shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this
Supplemental Agreement as of this _____ day of _____,
2008.

By Action of the City Council

Carl Brewer, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

Brent Remberg, VP
(Name and Title)

ATTEST:

David Hubbard

SCOPE OF SERVICES STATEMENT

SUPPLEMENTAL AGREEMENT NO. 4

- I. **GENERAL.** The objective of this Supplemental Agreement shall be to advance the 2.3 mile segment of West Kellogg, from approximately 1400 feet east of 151st Street West to one half mile west of Maize Road, to final plan completion, ready for letting to bid and to prepare final plans, specifications and estimates for related infrastructure improvements as requested by the CITY and set forth herein.

The scope of services set forth herein is predicated on the CITY receiving concurrence from the FHWA and KDOT that the project will maintain the current classification of Categorical Exclusion environmental impact determination.

Professional Engineering Consultants, P.A. (ENGINEER) will function as the prime consultant for the design team which shall include the following named subconsultants:

SUBCONSULTANT	ASSIGNMENT
McCluggage, Van Sickle & Perry	Landscape Architecture Design
Daniel Gegen Designs	Public Art Design
Allied Laboratories	Geotechnical Investigations
Adaptive Ecosystems, Inc.	Environmental Documentation

The work outlined herein shall hereinafter be referred to as the "FINAL PLANS PROJECT – PART 2" (FPP-2) to differentiate it from the PROJECT as defined in the original AGREEMENT. All of the work set forth under the following paragraph II.A. shall be understood to be a part of FINAL PLANS PROJECT – PART 2 (FPP-2).

II. SCOPE OF SERVICES

A. Design Services

1. Basic Services. The ENGINEER shall provide engineering design and technical services as required for the development and completion of final construction documents for West Kellogg proper. Said services and tasks to be in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Project Development Manual for Non-National Highway System Local Government Road and Street Projects, Volumes I and II, Bureau of Local Project's (BLP) project memorandums, memos, the current KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the City's approved Project Development Procedure for Non-NHS Projects/Project Procedures Manual, the current version of the KDOT Standard Specifications for State Road and Bridge Construction with the Special Provisions, and with any necessary Project Special Provisions, and A Policy of Geometric Design of Highways and Streets of the American Association of State Highway and Transportation Officials Policy, The KDOT Corridor Management Policy, and the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), as applicable. Plans shall be prepared in the format, content and detail as required by the Kansas Department of Transportation.

The final design phase effort shall include the following considerations with the proposed improvements being based on the Preliminary plans dated December 19, 2003 produced under the original AGREEMENT:

- a. Mainline US-54 grading, paving and drainage.
- b. Frontage road system grading, paving and drainage; from 151st St. West to one half mile west of Maize Road on north side, from 151st St. West to 135th St. West on the south side, and modifications to existing south side frontage road as necessary to accommodate FPP-2 at 135th St. West, 119th St. West and 111th St. West.
- c. Mainline bridges at Calfskin Creek and 119th St. West (totaling 4).
- d. Modifications to the existing west bound US-54 mainline bridge over Calfskin Creek to convert it to the west bound frontage road bridge.
- e. Bridge on 135th St. West over mainline US-54.
- f. Tie-back retaining wall system for mainline underpass at 135th St. West.
- g. MSE retaining wall system for mainline bridge approaches at 119th St. West.
- h. Side road improvements at 119th St. West and 135th St. West from the centerline of Kellogg north and south to a match with the existing roadways, and limited to lane configurations and transitions as required to operationally "service" the proposed interchanges.

- i. Traffic signals at 135th St. West and 119th St. West. Existing traffic signal at 111th St. West to be removed with FPP-2.
- j. Regulatory, warning and guidance signing. Regulatory and warning sign details will be furnished complete. Guidance sign details shall be limited to sign blank sizing and sign copy details. (KDOT will design standard trusses, supports and foundations for project signs.)
- k. Mainline, frontage road and interchange under bridge lighting (foundations for tower lighting designed by KDOT).
- l. Pavement marking plans (all roadways).
- m. Landscaping plan.
- n. Erosion control SWPPP including details for applicable BMP's.
- o. Artistic enhancement shall include plan note instructions and drawings depicting design of texturing on and shaping of structural elements which can be reasonably expected to be constructed as part of the FPP-2. The CITY shall enter into a separate agreement with the ARTIST(s) directly for any reuse elsewhere of art concepts or details developed for FPP-2.
- p. Coordinate ITS systems including accommodation for overhead truss signs. Include twelve (12) way duct bank from existing terminus at 111th Street to west end of project.
- q. Construction phasing and construction traffic control plans and details.
- r. Conduct field surveys as necessary to supplement and update topography base and DTM.

- s. Prepare updated LOS traffic analysis based on current and projected traffic volumes. Analysis will include obtaining traffic counts, preparing growth projections, capacity and operational analysis using HCM methodologies and Synchro simulation models. This work will include evaluation of the interchange at 151st Street and the section of freeway west to 167th Street.
- t. Review and update environmental documentation to obtain concurrence of environmental classification as Categorical Exclusion (KDOT will prepare and submit project "Status of Projects Environmental Concerns" letter to FHWA).
- u. Geotechnical investigations and recommendations for project embankment, pavement subgrade treatment, bridge foundations, sign foundations and retaining wall systems.
- v. Constructability review of the project plans at a mutually agreed upon time during FPP-2. Prepare construction cost estimate at Field Check, Office Check and Final Plans and other intervals as necessary either by CITY or KDOT.
- w. Update ROW strip map for any modifications resulting from FPP-2. Prepare tract maps and legal descriptions for same.
- x. Complete monumentation of new R/W. Complete and submit necessary legal documentation of same.
- y. Prepare all necessary permits for the PROJECT such as those required for USACE (404) permit, DWR permit, KDHE (NPDES NOI) permit, KDWP (T&E) permit. Payment of initial permit application fee(s) to be by ENGINEER and reimbursed by CITY. Permit renewal fees to be paid by CITY.

- z. Assist CITY with preparation of a project specification manual.
- aa. Attend meetings with Design Council (up to 3 meetings), District Advisory Board (up to 7 meetings), and City Council (up to 2).
- bb. Coordinate utility conflict resolution in accordance with CITY's current ULCC policy.
- cc. Conduct up to two (2) public involvement open house meetings.
- dd. Prepare and distribute quarterly newsletters to affected property owners and stakeholders updating them on status of project.

Included in the foregoing shall be submittal of the required sets of Field Check of the FPP-2, utility conflict resolution, and Office Check of the FPP-2. Final deliverables shall include electronic versions of the approved final plans submitted on CD or DVD in both AutoCAD and.pdf format. Text fonts other than standard AutoCAD fonts are to be included with drawing files. PDF files should be scalable to 22" x 36" and oriented right side up. Submit original Mylar tracings for the KDOT and as required for all water projects. Submit original manuscript and electronic version of project special provision specifications. Technical specifications shall in general be the specifications of the Kansas Department of Transportation in effect at the time the FPP-2 is advertised for bid. Attend Pre-bid conference on behalf of CITY.

Final plans shall be prepared in up to two (2) final bid packages:

1. Bid Package 1 - Frontage Road plans 151st to 135th on the south side only.
2. Bid Package 2 - Mainline plans from 1400 feet east of 151st to 111th including water main improvements described below.

2. Water Main Improvements within PROJECT corridor:

This item shall consist of the preparation of plans for the construction of water main improvements from approximately 111th Street West to 151st Street West lying on the north side of Kellogg. Work shall include approximately 13,200 LF of 30-inch, and 100 LF of 16-inch water main.

Plans to be incorporated with Bid Package 2.

B. Exclusions.

The following items are expressly excluded from the scope of services set forth herein:

1. Structural design and detailing of guidance sign columns, trusses, frames, footings, etc. (This work assumed to be by the KDOT.)
2. Tower lighting foundation design and detailing. (This work assumed to be by the KDOT.)
3. Design and details for the relocation or adjustment of private utility infrastructure within the FPP-2 corridor.

4. Construction by the ARTIST(s) of any artwork elements necessary for construction of PROJECT.
5. Details and/or plans for mitigation of contaminated sites.
6. Environmental study or documentation of any kind beyond that necessary to obtain concurrence of the previous Categorical Exclusion environmental classification.

C. Schedule.

1. The ENGINEER proposes to deliver final plans and specifications for "Basic Services" as defined in paragraphs II.A.1, to the CITY by October 1, 2009 for Bid Package 1, and September 1, 2010 for Bid Package 2, except that the ENGINEER shall not be responsible for delays beyond the control of the ENGINEER.

END OF EXHIBIT A2

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be

canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

ENGINEERING FEE ESTIMATE

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

ENGINEERS

WICHITA, KANSAS

PROJECT

West Kellogg Freeway

LOCATION

Wichita, Sedgwick County, Kansas

WORK ITEM

Final PS&E

PROJECT NO.

32-08000-042

DATE

3/24/2008

DESCRIPTION

Final Plans, 1400' E of 151st to 1/2 mi. W of Maize Road

(I) SALARY COSTS

POSITION TITLE	RATE	MAN HOURS	AMOUNT	TOTAL (SUBTOTAL)
1. PRINCIPALS	\$46.00	1445	\$66,470.00	
2. PROJECT MANAGER	\$40.00	3345	\$133,800.00	
3. PROJECT ENGINEER	\$33.50	7520	\$251,920.00	
4. DESIGN ENGINEER	\$28.00	11640	\$325,920.00	
5. DESIGN TECHNICIAN	\$29.00	9150	\$265,350.00	
6. DRAFTER	\$20.00	3620	\$72,400.00	
7. CHIEF OF SURVEYS	\$38.00	120	\$4,560.00	
8. SURVEYOR, PARTY CHIEF	\$26.00	320	\$8,320.00	
9. SURVEYOR, INSTRUMENT MAN	\$20.00	260	\$5,200.00	
10. SURVEYOR, AIDE	\$16.50	260	\$4,290.00	
11. FIELD ENGINEER				
12. INSPECTOR, ENGINEER				
13. INSPECTOR, TECHNICIAN				
14. LAB TECHNICIAN				
15. SPECIFICATION TECHNICIAN				
16. STENO & CLERICAL	\$16.00	280	\$4,480.00	
17. OTHER				
18. OTHER				
SUBTOTAL		37,960		\$ 1,142,710

(II) OVERHEAD 1.28 X (I) \$ 1,462,669

(III) SUBTOTAL (I + II) \$ 2,605,379

(IV) FIXED FEE (12%) \$ 312,645

(V) DIRECT COSTS

1. PREMIUM TIME	.57 X Direct		\$10,000.00	
2. CAD PER HOUR	\$16.00	12770	\$204,320.00	
3. TRAVEL PER MILE	\$0.50	1500	\$750.00	
4. PER DIEM, PER MAN DAY				
5. PRINTING (Plans, Specs, etc...) & POSTAGE	@ Cost		\$23,000.00	
6. OTHER - MVP (Landscape)(Attach C-1)			\$88,000.00	
7. OTHER - Dan Gegen Designs (Artist)(Attach C-2)			\$48,000.00	
8. OTHER - Allied Labs (Geotech) (Attach C-3)			\$104,500.00	
9. OTHER - Adaptive Ecosystems (Envrm.)(Att C-4)			\$25,875.00	
10. OTHER - Misc. Sub-Cons.(Constr. Review, other)			\$40,000.00	
11. OTHER - Permit Fees	@ Cost		\$2,000.00	
SUBTOTAL				\$ 546,445

(VI) TOTAL FEE FOR PROJECT (III + IV + V) \$ 3,464,469

MCCLUGGAGE VAN SICKLE & PERRY

March 14, 2008

Mr. Dave Hubbard
PROFESSIONAL ENGINEERING CONSULTANTS
303 S. Topeka
Wichita, KS 67202

**Re: Landscape Architectural Services
for West Kellogg Improvements
P-1487**

Dear Dave:

We appreciate this opportunity to continue our work with you and PEC on the referenced project.

We understand the scope of the project will be from 1400' East of 151st Street to one-half mile West of Maize, or approximately 2.3 miles. The project also includes two interchanges. Our services will include the design phase as well as construction document phase for landscaping the project.

We will provide the following services:

1. Preparation of landscape plan sheets, including stationing schedules.
2. Preparation of plans for irrigation.
3. Preparation of aesthetic paving details.
4. Preparation of planting detail sheets and plant list.
5. Coordination with your artistic consultant for such items as retaining wall artwork, guardrails, paving patterns, or other elements on which artwork will be incorporated.
6. Preparation of bid quantities, specifications and cost estimates as required for the work that we design and specify.

We will coordinate our efforts with your preliminary, field check, office check, and final plan phases. We understand that PEC will provide us "background" drawings via an electronic file for our use.

ARCHITECTS • PLANNERS • LANDSCAPE ARCHITECTS • INTERIOR DESIGNERS

P.O. Box 3848, WICHITA, KS 67201 • 125 S. WASHINGTON, WICHITA, KS 67202
PH 316-262-0451 • FAX 316-262-5465 • www.mvpcorp.com

Mr. Dave Hubbard
March 14, 2008
Page Two

Not included in our services are the following:

- Artistic consultation or implementation of artwork.
- Services in the construction administration phase.

We will provide the aforementioned services at hourly rates for a maximum fee of **EIGHTY THREE THOUSAND DOLLARS, (\$83,000.00)** plus reimbursable expenses. Hourly rates are as follows:

Principal I	\$110.00
Principal II	\$95.00
Architect I	\$85.00
Architect II	\$70.00
Architect III	\$65.00
Architect IV	\$60.00
Architect V	\$57.50
Architect VI	\$55.00
Interior Designer I	\$75.00
Interior Designer II	\$57.50
Landscape Architect I	\$70.00
Landscape Architect II	\$55.00
CADD Technician I	\$57.50
CADD Technician II	\$55.00
Construction Administrator I	\$88.00
Construction Administrator II	\$85.00
Construction Administrator III	\$65.00
Construction Administrator IV	\$60.00
Office Manager	\$75.00
Clerical	\$45.00
Courier	\$32.50
Graphic Artist	\$70.00

Estimated man-hours would be approximately 1,215 hours. These rates are subject to change per our normal annual salary adjustments.

Reimbursable expenses include printing and reprographics; long distance communications; postage, shipping, and couriers; photography; and similar expenses incurred in the interest of the project. These reimbursables are estimated to be \$5,000.00.

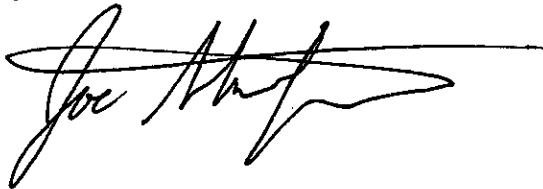
Mr. Dave Hubbard
March 14, 2008
Page Three

Upon your acceptance, we will be pleased to enter into the appropriate agreement with your firm.
Thank you for this opportunity to be of service.

Sincerely,

McCLUGGAGE VAN SICKLE & PERRY CORPORATION

By:

A handwritten signature in black ink, appearing to read "Joe Steffes", with a long horizontal flourish extending to the right.

Joseph D. Steffes, ASLA, LEED AP

JDS/rt

xc: File P1487

March 02, 2008

EXHIBIT C
ATTACHMENT C-2
Sheet 1 of 1

Daniel Gegen Designs
2122 S. Prescott
Wichita, KS 67209

Professional Engineering Consultants, P.A.
303 S. Topeka
Wichita, KS 67202

Reference: Scope of work for Final Plans Project – Part 2 of West Kellogg Freeway to include 1400 feet east of 151st Street to 1/2 mile west of Maize Road (2.3 miles).

Dear Dave Hubbard:


As Artist Consultant for the continuation of the project, I will work with the PEC team to further develop the concepts for the inclusion of the Public Art in the above referenced project. I will continue to meet with PEC and the design team to see the project through the final approval process. Upon approval of the initial concepts by the Public Arts Board, I will then determine the most appropriate way to incorporate those concepts into an integrated Public Arts Project. Consideration will be given to appropriate sighting, auto and pedestrian traffic, and the environment. PEC will receive a written summary recommendation of the final concept for team approval, followed by drawings for use in the continuation of the approval process. At the final presentation stage, I will make a recommendation as to who I feel is best qualified to produce the physical artwork and by what method the artwork will be delivered.

Further, I will prepare final details and specifications for any elements intended to be bid for construction, and furnish said details to PEC for transformation into the format and content required by the project bid documents.

For any elements intended to be constructed by me as the artist commissioned by the city, I will work unilaterally with the City in negotiating a completely separate agreement for producing said work of art.

I proposed to provide the above-described services on the basis of a standard hourly rate of \$85.00 per hour not to exceed a maximum amount of \$ 48,000. This amount will to be billed out on a monthly basis.

Respectfully yours,



Daniel Gegen

ALLIED LABORATORIES DEPARTMENT
G. K. GREENWOOD, P.E., MANAGER
S. M. HERMAN, P.E., ASSISTANT MANAGER

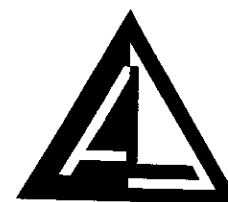
CONSTRUCTION DIVISION
B. J. EDMUNDSON, P.E., MANAGER
A. D. WARD, CET, LAB SUPERVISOR
R. A. RIPPEL, CET, LAB SUPERVISOR
H. G. LINDE, P.E.

SURVEY DIVISION
J. R. BECKETT, L.S., MANAGER
D. L. SCHMIDT, L.S.
D. K. HOLLINGSWORTH, L.S., CET
C. W. BROOKSHER, L.S., CET

GEOTECHNICAL DIVISION
S. M. HERMAN, P.E., MANAGER
K. J. POYNOR, AET

KEY PERSONNEL
L. D. CARSTENSON, L.S., SET
G. M. ERICKSON, SET
M. G. KEENAN, SET
J. S. LORSON, SET, CWI
J. K. NICHOLS, CET
W. P. WELDEN, SET
J. M. GOODWIN, SET, CWI
C. E. DANIELS, AET
R. C. PEPOWSKI, CET
G. S. FIELDS, SET

EXHIBIT C
ATTACHMENT C-3
Sheet 1 of 11



**ALLIED
LABORATORIES**

A DEPARTMENT OF PROFESSIONAL
ENGINEERING CONSULTANTS, P.A.

March 13, 2008

Mr. David Hubbard, P.E.
Professional Engineering Consultants, P.A.
303 South Topeka
Wichita, Kansas 67202

Re: **Cost Estimate for Geotechnical Services**
West Kellogg Improvements
119th to 135th Street West
Wichita, Kansas

Mr. Hubbard,

Allied Laboratories is pleased to submit this cost estimate for geotechnical services for the above referenced project. We understand the project will consist of improvements to West Kellogg Avenue (US Highway 54) from approximately ½ mile east of 119th Street West to ½ mile west of 135th Street West in Wichita, Kansas. Although exact details of the proposed project were not available, we understand the project will include 5 new bridges, MSE retaining walls at 119th Street, tie back retaining walls at 135th Street, tower lights, overhead sign trusses, new pavement and various appurtenances. We also understand that the project alignment will be shifted slightly but will closely follow the existing alignment. Grade changes are generally minor along most of the alignment with cuts and fills on the order of 3 to 4 feet although deep cuts and fills on the order of 20 to 25 feet will be necessary at the 119th and 135th Street interchanges.

The estimated number of borings and anticipated boring depths are presented on Attachment A through Attachment G. These estimates are based on anticipated subsurface conditions and may need to be modified based on the actual subsurface conditions encountered. Samples of the subsurface materials will be obtained primarily by standard penetration testing at 5 foot intervals. Additional samples may be obtained at selected locations and depths using 3 inch diameter thin walled shelly tubes (where feasible). Grab and bulk samples may also be obtained from auger cuttings during drilling.

FORWARD ALL MAIL TO
ALLIED LABORATORIES
303 SOUTH TOPEKA
WICHITA, KANSAS 67202
E-MAIL: Allied@PEC1.com

CONSTRUCTION/SURVEY/GEOTECHNICAL
DIVISIONS LOCATED AT
350 SOUTH WASHINGTON
WICHITA, KANSAS 67202
(316) 262-6457
FAX NO. (316) 262-6592

Cost Estimate for Geotechnical Services
West Kellogg Improvements
119th to 135th Street West
Wichita, Kansas
Page 2

EXHIBIT C
ATTACHMENT C-3
Sheet 2 of 11

Laboratory testing will be performed to determine index and engineering properties on selected samples. Tests performed will be dependent on soil conditions encountered. Anticipated testing includes moisture content, Atterberg Limits, dry unit weight, material finer than 200 sieve, grain size analysis, unconfined compression, direct shear, and swell-consolidation testing. The geotechnical report will include field and laboratory test results, and our conclusions and recommendations for project design.

Fees for the geotechnical services as outlined above and on the attachments are estimated to be approximately \$ 96,500.00. The estimate assumes all boring locations are accessible with a Mobile Drill B-53 truck mounted drill rig. Costs associated with site access including site leveling, clearing trees or other access restrictions are not included in this proposal. The fee estimate also does not include costs for traffic control. We anticipate traffic control costs for this project may range from approximately \$ 5,000.00 to \$ 8,000.00 although an accurate estimate for traffic control (if necessary) cannot be provided until boring locations are determined. The fee estimate is based on assumed boring and testing requirements. If additional services not outlined in this proposal are necessary, they would be performed at the unit rates presented.

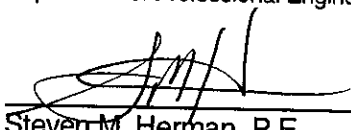
Prior to drilling, Allied Laboratories will perform a utility check of the site by notifying the Kansas One Call system. However, all on-site private utilities may not be identified or marked by the One Call system. The client/owner should mark and notify Allied Laboratories of all known on-site utilities not covered by Kansas One Call.

We appreciate the opportunity to provide this proposal. Our General Provisions for Professional Services and Special Provisions for Geotechnical Services are presented on Attachments H and I, respectively. Please contact us if you have any questions.

Sincerely,

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.



Steven M. Herman, P.E.
Geotechnical Division Manager

attachments



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE
119th Street Bridges

Attachment A

EXHIBIT C
ATTACHMENT C-3

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

Sheet 3 of 11

I. SCOPE OF SERVICES

- Drill 8 borings to depths of 80 feet.
- Perform standard penetration tests at 5 foot intervals in 2 borings and at 10 foot intervals in 2 borings.
- Obtain shelly tube and/or grab samples in the borings and at various intervals for laboratory testing.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for project design of the bridge foundations.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	12	\$720.00
			<i>Subtotal</i>	<i>\$1,120.00</i>
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	48	\$9,120.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	400.00	lump sum	1	\$400.00
			<i>Subtotal</i>	<i>\$9,520.00</i>
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	54	\$540.00
3.2 Minus 200 Content	25.00	each	12	\$300.00
3.3 Atterberg Limits	70.00	each	8	\$560.00
3.4 Unconfined Compression	70.00	each	8	\$560.00
3.5 Dry Unit Weight	25.00	each	0	\$0.00
3.6 Standard Proctor	120.00	each	0	\$0.00
3.7 Swell-Consolidation	300.00	each	0	\$0.00
			<i>Subtotal</i>	<i>\$1,960.00</i>
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	24	\$2,280.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	4	\$220.00
			<i>Subtotal</i>	<i>\$2,500.00</i>
Estimated Total Cost				\$15,100.00



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE

135th Street Bridges

Attachment B

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

EXHIBIT C
ATTACHMENT C-3

Sheet 4 of 11

I. SCOPE OF SERVICES

- Drill 8 borings to depths of 80 feet.
- Perform standard penetration tests at 5 foot intervals in 2 borings and at 10 foot intervals in 2 borings.
- Obtain shelly tube and/or grab samples in the borings and at various intervals for laboratory testing.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for project design of the bridge foundations.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	12	\$720.00
			<i>Subtotal</i>	<i>\$1,120.00</i>
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	48	\$9,120.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	400.00	lump sum	1	\$400.00
			<i>Subtotal</i>	<i>\$9,520.00</i>
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	54	\$540.00
3.2 Minus 200 Content	25.00	each	12	\$300.00
3.3 Atterberg Limits	70.00	each	8	\$560.00
3.4 Unconfined Compression	70.00	each	8	\$560.00
3.5 Dry Unit Weight	25.00	each	0	\$0.00
3.6 Standard Proctor	120.00	each	0	\$0.00
3.7 Swell-Consolidation	300.00	each	0	\$0.00
			<i>Subtotal</i>	<i>\$1,960.00</i>
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	24	\$2,280.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	4	\$220.00
			<i>Subtotal</i>	<i>\$2,500.00</i>
Estimated Total Cost				\$15,100.00



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE

Calfskin Creek Bridges

Attachment C

EXHIBIT C
ATTACHMENT C-3

Sheet 5 of 11

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

I. SCOPE OF SERVICES

- Drill 8 borings to depths of 80 feet.
- Perform standard penetration tests at 5 foot intervals in 3 borings and at 10 foot intervals in 3 borings.
- Obtain shelly tube and/or grab samples in the borings and at various intervals for laboratory testing.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for project design of the bridge foundations.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	12	\$720.00
			<i>Subtotal</i>	<i>\$1,120.00</i>
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	48	\$9,120.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	400.00	lump sum	1	\$400.00
			<i>Subtotal</i>	<i>\$9,520.00</i>
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	54	\$540.00
3.2 Minus 200 Content	25.00	each	12	\$300.00
3.3 Atterberg Limits	70.00	each	8	\$560.00
3.4 Unconfined Compression	70.00	each	8	\$560.00
3.5 Dry Unit Weight	25.00	each	0	\$0.00
3.6 Standard Proctor	120.00	each	0	\$0.00
3.7 Swell-Consolidation	300.00	each	0	\$0.00
			<i>Subtotal</i>	<i>\$1,960.00</i>
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	24	\$2,280.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	4	\$220.00
			<i>Subtotal</i>	<i>\$2,500.00</i>
Estimated Total Cost				\$15,100.00



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE

Attachment D

119th Street MSE Walls

EXHIBIT C
ATTACHMENT C-3

Sheet 6 of 11

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

I. SCOPE OF SERVICES

- Drill 4 borings to depths of 25 feet, 4 to 20 feet, 4 to 15 feet, 4 to 10 feet.
- Perform standard penetration and/or shelly tube samples at 5 foot intervals.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for project design of the MSE Walls.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	8	\$480.00
			Subtotal	\$880.00
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	24	\$4,560.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	200.00	lump sum	0	\$0.00
			Subtotal	\$4,560.00
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	66	\$660.00
3.2 Minus 200 Content	25.00	each	10	\$250.00
3.3 Atterberg Limits	70.00	each	10	\$700.00
3.4 Unconfined Compression	70.00	each	10	\$700.00
3.5 Direct Shear	350.00	point	12	\$4,200.00
3.6 Standard Proctor	120.00	each	0	\$0.00
3.7 Swell-Consolidation	300.00	each	2	\$600.00
			Subtotal	\$7,110.00
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	36	\$3,420.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	6	\$330.00
			Subtotal	\$3,750.00
Estimated Total Cost				\$16,300.00



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE

Attachment E

135th Street Tie Back Walls

EXHIBIT C
ATTACHMENT C-3

Sheet 7 of 11

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

I. SCOPE OF SERVICES

- Drill 4 borings to depths of 60 feet, 4 to 40 feet, 4 to 30 feet, and 4 to 20 feet.
- Perform standard penetration and/or shelly tube samples at 5 foot intervals.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for project design of the tie back retaining walls.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	10	\$600.00
			<i>Subtotal</i>	<i>\$1,000.00</i>
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	40	\$7,600.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	200.00	lump sum	1	\$200.00
			<i>Subtotal</i>	<i>\$7,800.00</i>
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	90	\$900.00
3.2 Minus 200 Content	25.00	each	8	\$200.00
3.3 Atterberg Limits	70.00	each	8	\$560.00
3.4 Unconfined Compression	70.00	each	8	\$560.00
3.5 Direct Shear	350.00	point	9	\$3,150.00
3.6 Standard Proctor	120.00	each	0	\$0.00
3.7 Swell-Consolidation	300.00	each	0	\$0.00
			<i>Subtotal</i>	<i>\$5,370.00</i>
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	40	\$3,800.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	6	\$330.00
			<i>Subtotal</i>	<i>\$4,130.00</i>
Estimated Total Cost				\$18,300.00



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE

Attachment F

Pavement Borings

EXHIBIT C
ATTACHMENT C-3

Sheet 8 of 11

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

I. SCOPE OF SERVICES

- Drill 16 borings to depths of 8 feet.
- Perform standard penetration and/or shelly tube samples at 5 foot intervals.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for project design of the pavement.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	8	\$480.00
			<i>Subtotal</i>	<i>\$880.00</i>
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	12	\$2,280.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	100.00	lump sum	0	\$0.00
			<i>Subtotal</i>	<i>\$2,280.00</i>
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	36	\$360.00
3.2 Minus 200 Content	25.00	each	8	\$200.00
3.3 Atterberg Limits	70.00	each	8	\$560.00
3.4 Unconfined Compression	70.00	each	0	\$0.00
3.5 Direct Shear	350.00	point	0	\$0.00
3.6 CBR w/Proctor	400.00	each	2	\$800.00
3.7 Swell-Consolidation	300.00	each	0	\$0.00
			<i>Subtotal</i>	<i>\$1,920.00</i>
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	20	\$1,900.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	4	\$220.00
			<i>Subtotal</i>	<i>\$2,120.00</i>
			Estimated Total Cost	\$7,200.00



GEOTECHNICAL SCOPE OF SERVICES AND COST ESTIMATE

Tower Lights and Overhead Trusses

Attachment G

ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

EXHIBIT C
ATTACHMENT C-3

Sheet 9 of 11

I. SCOPE OF SERVICES

- Drill 14 borings to depths of 30 feet.
- Perform standard penetration tests at 5 foot intervals.
- Obtain Shelby tube and/or grab samples in the borings and at various intervals for laboratory testing.
- Perform field and laboratory testing to determine classification and engineering properties of the in-situ soils.
- Prepare a written report presenting the results of the field exploration, laboratory testing and our conclusions and recommendations for foundation design.

II. ESTIMATED FEES

Estimated fees are based on the following unit rates and anticipated quantities. This estimated fee is based on our understanding of the project and anticipated subsurface conditions. It may be considered a lump sum fee for the scope of services outlined above. Should conditions warrant, we will contact you prior to exceeding the estimated fee.

<u>Billing Item</u>	<u>Unit Prices</u>	<u>Unit</u>	<u>Quantity</u>	<u>Cost</u>
1. Mobilization				
1.1 Rig & Crew (base charge)	400.00	lump sum	1	\$400.00
1.2 Rig & Crew Mileage	2.50	mile	0	\$0.00
1.3 Senior Technician	60.00	hour	12	\$720.00
			<i>Subtotal</i>	<i>\$1,120.00</i>
2. Field Exploration				
2.1 Drill Rig & Crew	190.00	hour	21	\$3,990.00
2.2 Shelby Tube Samples	10.00	each	0	\$0.00
2.3 Seal Borings	400.00	lump sum	1	\$400.00
			<i>Subtotal</i>	<i>\$4,390.00</i>
3. Laboratory Testing				
3.1 Moisture Contents	10.00	each	70	\$700.00
3.2 Minus 200 Content	25.00	each	8	\$200.00
3.3 Atterberg Limits	70.00	each	7	\$490.00
3.4 Unconfined Compression	70.00	each	7	\$490.00
3.5 Dry Unit Weight	25.00	each	0	\$0.00
3.6 Standard Proctor	120.00	each	0	\$0.00
3.7 Swell-Consolidation	300.00	each	0	\$0.00
			<i>Subtotal</i>	<i>\$1,880.00</i>
4. Consultation and Report				
4.1 Geotechnical Engineer	95.00	hour	20	\$1,900.00
4.2 Sr. Engineering Technician	60.00	hour	0	\$0.00
4.3 Clerical	55.00	hour	2	\$110.00
			<i>Subtotal</i>	<i>\$2,010.00</i>
			Estimated Total Cost	\$9,400.00



1. **STANDARD OF CARE.** Allied Laboratories, a department of Professional Engineering Consultants, P.A. (herein referred to as Allied) shall provide professional services according to the agreed upon scope of services. Allied will perform the services with the level of care and skill ordinarily exercised by other Consultants of the same profession under similar circumstances at the time the services are performed and in the same locality. Allied makes no warranties, express or implied, under this Agreement, or in any report, opinion, document, or otherwise. Client shall give Allied prompt written notice of all suspected defects in the services.
2. **INITIATION.** Allied is authorized to proceed upon receipt of an executed copy of the Agreement or Notice to Proceed. If verbal notice to proceed is given, the terms of these provisions will apply whether or not a signed proposal is returned. Client shall provide Allied right-of-entry to property. Client shall notify Allied of all known health and safety hazards on the site. Client shall correctly identify the location of known subsurface structures and utilities. Allied shall not be responsible for damage to underground structures or utilities.
3. **TAXES.** Client shall reimburse Allied for any sales, use and value-added taxes which apply to these services. Client shall reimburse Allied for the amount of such taxes in addition to the compensation due for the services.
4. **INSURANCE.** Allied agrees to maintain during the performance of the services: Statutory Workers' Compensation coverage; and Comprehensive General and Automobile Liability insurance coverage in the sum of the agreed amount; and to the extent applicable, Professional Liability insurance for Allied's negligent acts, errors or omissions in providing services.
5. **FORCE MAJEURE:** Neither party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other party, or that could not have been reasonably foreseen and prevented including, but not be limited to, weather, floods, earthquakes, epidemics, war, riots, terrorism, strikes, and unanticipated site conditions.
6. **INDEMNIFICATION/HOLD HARMLESS.** Allied shall indemnify and hold harmless the Client and its employees from any and all liability, settlements, loss, attorney's fees, and expenses in connection with damages resulting from Allied's negligent acts, errors, or omissions in services provided pursuant to this Agreement; provided, however, that if any such liability, settlements, attorney's fees or expenses result from the concurrent negligence of Allied and the Client, this indemnification applies only to the extent of Allied's negligence.
7. **USE OF DOCUMENTS.** Drawings, specifications, reports, programs, manuals, or other documents, including all documents on electronic media, prepared under this Agreement are instruments of service and as such are applicable only to the subject project. Allied shall retain an ownership and property interest therein.
8. **DISPUTES.** Any action for claims arising out of or relating to this Agreement or the project that is the subject of this Agreement shall be governed by the laws of the State of Kansas. Good faith negotiation and mediation are express conditions precedent to the filing of any legal action. Unless the parties agree otherwise, the mediation shall be conducted pursuant to the Construction Mediation Rules of the American Arbitration Association.
9. **TERMINATION OF AGREEMENT.** Each party reserves the right to terminate this Agreement at any time, upon a 15 day written notice, provided that Allied shall be paid the value of the services rendered up to the time of termination.
10. **AGREEMENT SOLELY FOR PARTIES' BENEFIT.** This agreement is solely for the benefit of Allied and Client. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of Allied or Client in favor of such third parties.
11. **LIMITATION OF LIABILITY.** Client and Allied agree that to the fullest extent permitted by law, Allied's total liability to the Client is limited to \$1,000,000 for any and all damages or expenses arising out of this Agreement from any cause(s) or under any theory of liability. In no event shall Allied be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by Client or its subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.



ALLIED LABORATORIES

Department of Professional Engineering Consultants, P.A.

SPECIAL PROVISIONS FOR GEOTECHNICAL SERVICES

Attachment I
EXHIBIT C-3
ATTACHMENT C-3

Sheet 11 of 11

1. **RIGHT OF ENTRY.** Client shall provide Allied Laboratories, a Department of Professional Engineering Consultants, P.A. (herein referred to as Allied) right of entry to the project site. Client shall also provide all approvals, consents, permits and licenses necessary for the performance of our services. Allied will take reasonable precautions to minimize property damage. Client recognizes that damage may occur due to heavy equipment and drilling activities. Restoration of the project site is not included with our services unless specifically identified in the proposal.
2. **ACCESS.** The geotechnical proposal assumes all boring locations are accessible to our drilling equipment. Client shall provide access to all boring locations, including but not limited to, clearing of trees and vegetation, removal of fences or other obstructions, and leveling the site, unless specifically included in Allied's scope of services. Allied may terminate this agreement if access to the boring locations is not provided.
3. **HAZARDOUS MATERIALS.** Client shall inform Allied of all known or suspected health and safety hazards at the project site. If unanticipated hazardous materials are observed or suspected during performance of our services, Allied may terminate, or suspend work until a suitable safety plan is developed. Allied does not create hazardous materials and will not be responsible for hazardous materials resulting from drilling activities. Hazardous materials, including but not limited to fluids and soil cuttings, from the drilling activities are the property of the client and will be left at the site. The client is responsible for treatment or disposal of hazardous materials.
4. **UTILITIES.** Client shall correctly identify and mark the location of known subsurface structures and utilities. Allied will take reasonable precautions to avoid damage to underground structures and utilities including notifying Kansas One Call prior to drilling. Allied shall not be responsible for direct or indirect damages to Client or third parties caused by the failure to correctly locate and mark underground structures and utilities.
5. **BORING LOCATIONS AND ELEVATIONS.** Allied's drilling crew will locate borings by measuring distances and estimating angles from existing site features. Borings will be drilled at the approximate proposed or requested locations. Allied may move boring locations due to site access restrictions or subsurface variations. Ground surface elevations will be determined by the drilling crew using a level survey referencing readily accessible benchmarks and an assumed elevation unless an established benchmark is provided. Boring locations and elevations will be approximate within the limits of these methods. If more accuracy is required, Client should employ a registered land surveyor to obtain locations and elevations.
6. **SAMPLES.** Samples obtained during the field exploration will be tested in the laboratory for index and engineering properties as outlined in the proposal referencing ASTM procedures. Samples will be disposed of immediately after completion of the geotechnical report unless other arrangements are made.
7. **SAFETY.** Allied has safety procedures for our drilling crew and personnel. Allied is not responsible for safety of persons other than Allied employees. Allied is not responsible for damages incurred by third parties due to drilling activities.
8. **SUBSURFACE RISKS.** Special risks occur whenever engineering disciplines are applied to identify subsurface conditions. Even a comprehensive sampling and testing program with appropriate equipment and experienced personnel in accordance with the professional standard of care may not detect all subsurface conditions. Site exploration identifies subsurface conditions only at those points and times where subsurface tests are conducted or samples are obtained. Geotechnical engineers review the field and laboratory data and then apply their professional judgment to render an opinion about subsurface conditions throughout the site. Actual subsurface conditions may differ from those indicated in the Geotechnical Report. Retaining the geotechnical engineer who developed the report to provide construction observation is the most effective method of managing the risks associated with unanticipated conditions.



ADAPTIVE ECOSYSTEMS, INC.
A NATURAL SOLUTION

**West Kellogg Improvements
Proposal for Environmental Compliance Services
March 14, 2008**

Project Background

Professional Engineering Consultants is managing West Kellogg Improvements for the City of Wichita. The PROJECT will start about 1400' east of 151st and will include new interchanges at 135th (Mainline under) and 119th (Mainline over).

Project Area

The south frontage road between 135th and 119th will be constructed later this year including the new bridge over the Calfskin under a separate project; environmental permitting has been completed. The PROJECT will include new mainline bridges (2) over the Calfskin. The existing WB mainline bridge over the Calfskin will remain and become the WB frontage road. The EB mainline bridge will be removed and replaced with the 2 new mainline bridges. The PROJECT will include construction of the remainder of the frontage roads west 151st. Nothing will be constructed west of 151st with the PROJECT. 119th will have been constructed by separate projects both north and south of Kellogg to within 400 feet.

Scope Items

Adaptive Ecosystems, Inc. (Adaptive) is providing a proposal to:

- Prepare a Categorical Exclusion
- Assist in Environmental Permitting
- Participate in public involvement

Task 1: Categorical Exclusion

Adaptive will complete field reconnaissance studies in support of a Categorical exclusion. This will include mapping of jurisdictional waters and potential protected species habitat (Spotted Skunk). Field data will be taken. Formal reports will be prepared in the environmental permitting stage of the project.

Adaptive Ecosystems, Inc would complete agency coordination and field studies needed to obtain a Categorical Exclusion for the West Kellogg Improvements. Adaptive would prepare and mail solicitation letters to the following agencies to begin dialog on NEPA, permitting and environmental issues that may affect the project:

- Kansas Department of Wildlife and Parks (KDWP)
- Kansas Department of Health and Environment (KDHE)
- Kansas State Historic Preservation Officer (SHPO)
- Corps of Engineers (KC District)

- US Fish & Wildlife Service (USFWS)
- Kansas Biological Survey (KBS)
- US Environmental Protection Agency (USEPA)

Adaptive Ecosystems, Inc. would prepare the KDOT CE Form. The CE would include; a project description, summary of displacements, results of Farmland Conversion Impact Rating, a jurisdictional waters/Corp Permit assessment, results of coordination with the State Historic Preservation Office concerning Cultural and Historic Resources in the project area, results of coordination with U.S.F.W.S. concerning Threatened and Endangered Species, hazardous waste issues in the project area, a determination of parkland impacts, resources, and assessments of air, noise and floodplain impacts. Agency letter would be attached.

The CE would be reviewed by the PEC and forwarded to the City/KDOT. KDOT would pursue concurrence with FHWA. Solicitation letters will be forwarded to the resource agencies included. Hours are included to attend one (1) public meeting.

Services and Deliverables: Field reconnaissance studies, agency solicitation letters, CE form; attend one (1) public meeting

Schedule: 60 days from notice to proceed

Task 2: Environmental Permitting

Adaptive will provide environmental permitting services for the following:

- Kansas Department of Water Resources (KDWR) permitting (environmental portion)
- Section 404 Permitting
- KDWP Special Action Permitting (if required)

Adaptive will review the KDWR fill in floodplains permit for environmental issues. Adaptive will also provide agency coordination services to expedite permitting.

Adaptive will prepare a Section 404 Nationwide Permit Application. The permit will include a preliminary jurisdictional determination using data collected during reconnaissance survey (Task 1), a request for Nationwide Permit authorization and a conceptual mitigation plan.

A KDWP Special Action Permit may be required for impacts to spotted skunk habitat. The special action permit will include a habitat assessment (using data collected in the field during reconnaissance survey), a permit application and mitigation plan.

Services and Deliverables: KDWR permit (environmental section only; agency coordination); Section 404 Permit Application; KDWP Special Action Permit Application

Schedule: 60 days after preliminary design

Fee Estimate: An estimate of labor hours, expenses and costs are provided in the attached Table 1. A total cost estimate for all services and expenses is a maximum not to exceed \$25,875.00. Adaptive will bill on a time and materials basis on a monthly basis. PEC will invoices within 30 days of receipt.

Exclusions:

Does not include a cultural resource survey

Does not include a final mitigation plan/construction drawings and specifications for Section 404 Mitigation-(may not be required)

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ENGINEERING FEE ESTIMATE

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

ENGINEERS

WICHITA, KANSAS

PROJECT

West Kellogg Freeway

LOCATION

Wichita, Sedgwick County, Kansas

WORK ITEM

Final PS&E

PROJECT NO.

32-08000-042

DATE

3/24/2008

DESCRIPTION

Waterline Improvements 151st St. W. to 111th St. W. (Approx. 13200, L.F. 30", 100 L.F. 16")

(I) SALARY COSTS

POSITION TITLE	RATE	MAN HOURS	AMOUNT	TOTAL (SUBTOTAL)
1. PRINCIPALS	\$46.00	24	\$1,104.00	
2. PROJECT MANAGER	\$40.00	116	\$4,640.00	
3. PROJECT ENGINEER	\$33.50	494	\$16,549.00	
4. DESIGN ENGINEER	\$28.00	720	\$20,160.00	
5. DESIGN TECHNICIAN	\$29.00	852	\$24,708.00	
6. DRAFTER	\$20.00	1000	\$20,000.00	
7. CHIEF OF SURVEYS	\$38.00	16	\$608.00	
8. SURVEYOR, PARTY CHIEF	\$26.00	24	\$624.00	
9. SURVEYOR, INSTRUMENT MAN	\$20.00	16	\$320.00	
10. SURVEYOR, AIDE	\$16.50	16	\$264.00	
11. FIELD ENGINEER				
12. INSPECTOR, ENGINEER				
13. INSPECTOR, TECHNICIAN				
14. LAB TECHNICIAN				
15. SPECIFICATION TECHNICIAN				
16. STENO & CLERICAL	\$16.00	24	\$384.00	
17. OTHER				
18. OTHER				
SUBTOTAL		3,302		\$ 89,361

(II) OVERHEAD 1.28 X (I) \$ 114,382

(III) SUBTOTAL (I + II) \$ 203,743

(IV) FIXED FEE (12%) \$ 24,449

(V) DIRECT COSTS

1. PREMIUM TIME	.57 X Direct		\$100.00	
2. CAD PER HOUR	\$16.00	946	\$15,136.00	
3. TRAVEL PER MILE	\$0.50	150	\$75.00	
4. PER DIEM, PER MAN DAY				
5. PRINTING (Plans, Specs, etc...) & POSTAGE	@ Cost		\$1,500.00	
6. OTHER				
7. OTHER				
8. OTHER				
9. OTHER				
10. OTHER				
11. OTHER				
SUBTOTAL				\$ 16,811

(VI) TOTAL FEE FOR PROJECT (III + IV + V) \$ 245,003

**City of Wichita
City Council Meeting
April 8, 2008**

TO: Mayor and City Council

SUBJECT: VAC2007-00038 Request to vacate portions of a platted street right-of-way; generally located west of Oliver Avenue, south of Douglas Avenue. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicants are requesting the vacation of what can be generally described as the north and south 20 feet of the platted 100 foot English Street right-of-way (ROW), located between Fountain Avenue and Willow Street. The applicants propose to keep the existing sidewalks located in the ROW, while trying to not go below the current standard of a 60 foot ROW for a residential street, which is what this portion of English Street is classified. The proposed vacation will essentially bring most, if not all of the applicants' front yards up to the inside edge of the sidewalks on both sides of English. It will also remove a partially constructed retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition from this public street ROW. There are no platted setbacks, therefore all the setbacks established by the Unified Zoning Code (UZC) for the participating properties will move forward with the newly established property lines. The participating properties' zoning will also follow the new property lines. Water is located on the outside edge of the south sidewalk, out of the proposed vacated ROW. Additional easement has been dedicated, through the Vacation Order, to provide access to a sewer line located between Lot 16 (west) and Lots 23, 24 and 25 (east), which are included in Block 2, the Merriman Park Second Place Addition. The Merriman Park Second Place Addition was recorded with the Register of Deeds on May 16, 1912. The OA White's Addition in Merriman Addition was recorded with the Register of Deeds on March 15, 1917. The Hammond Terrace Addition was recorded with the Register of Deeds on October 20, 1917.

Analysis: The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

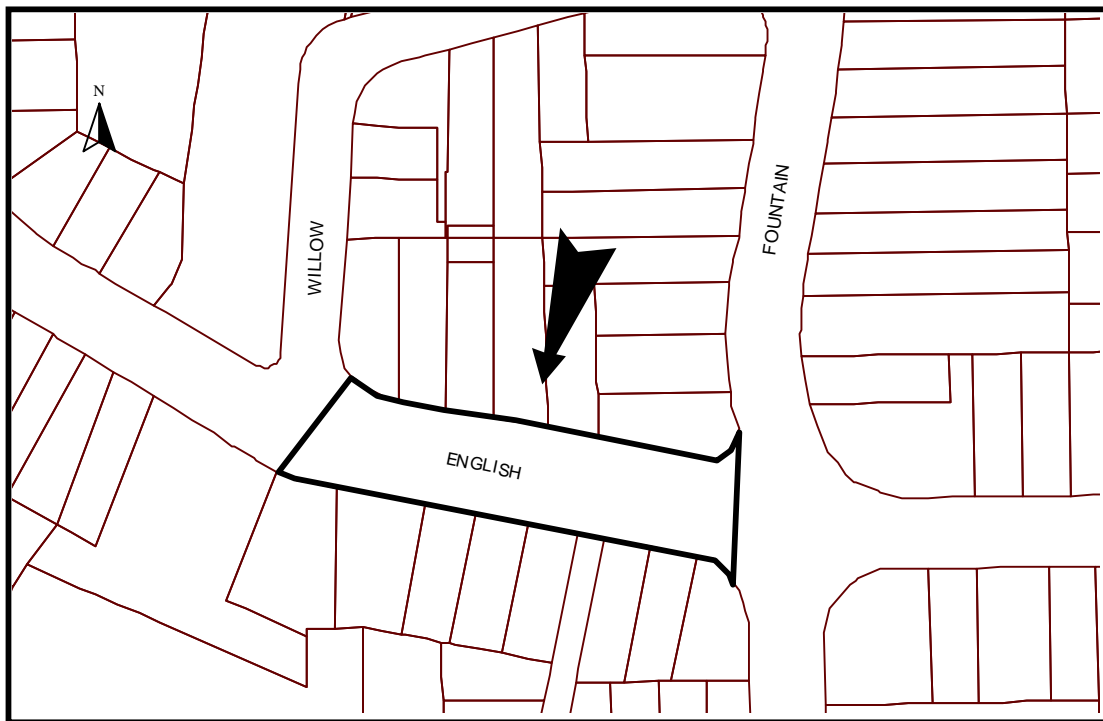
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council

SUBJECT: VAC2008-00005 Request to vacate a portion of a platted setback; generally located east of Tyler Road, south of 29th Street North.
(District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant proposes to vacate the east 3 feet of the platted 15 foot street side yard setback, making it a 12 foot street side yard setback. The subject site is Lot 13, Block D, the Fossil Rim Estates Addition. The subject site is zoned "SF-5" Single-family Residential. The Unified Zoning Code (UZO) requires a minimum of a 15 foot street side yard setback for the SF-5 zoning district, which matches the site's platted setback. If this was not a platted setback, the applicant could have applied for an Administrative Adjustment. This would reduce the site's 15 foot street side yard setback by 20%, resulting in a 12 foot setback, which is what the applicant is requesting. There are no platted easements within the platted setback. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback. The Fossil Rim Estates plat was recorded with the Register of Deeds on May 31, 2002.

Analysis: The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

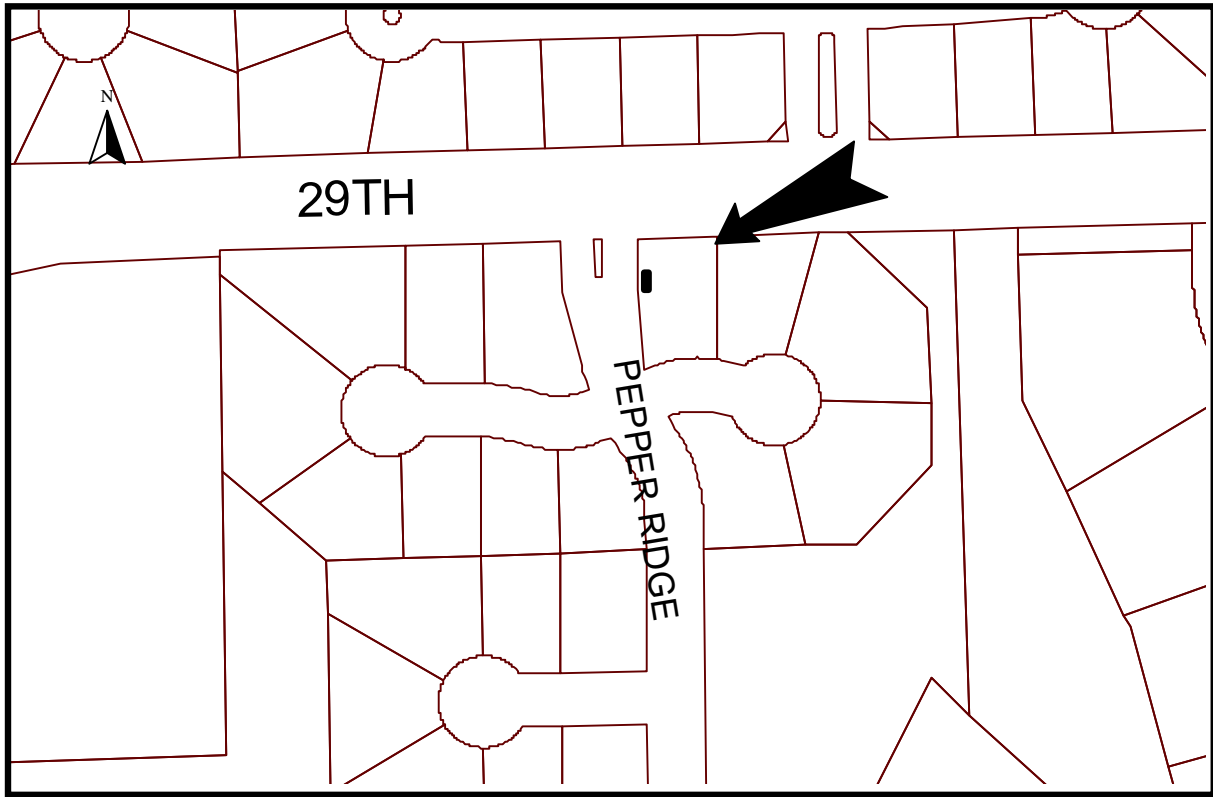
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.





Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28960283

Receipt #: 1682458
Pages Recorded: 2
Cashier Initials: DH

Recording Fee: \$12.00
Authorized By:

Date Recorded: 3/19/2008 9:13:01 AM



Grantor	<u>MENNONITE HOUSING REHAB SERV</u>
Grantee	<u>WICHITA CITY OF</u>
Type of Document	<u>EASEMENTS - MISCELLANEOUS</u>
Recording Fees	<u>\$12.00</u>
Mtg Reg Tax	<u>\$0.00</u>
Total Amount	<u>\$12.00</u>
Return Address	<u>CITY OF WICHITA PLANNING DEPT/CHERYL HOLLOWAY</u>
	<u>455 N MAIN 10TH FLR</u>
	<u>WICHITA KS 67202</u>
	<u></u>

DRAINAGE EASEMENT

THIS EASEMENT made this 6th day of March, 2008, by and between Mennonite Housing Rehabilitation Services, Inc., 2145 N Topeka, Wichita KS 67214 of the First part and the City of Wichita, Kansas of the second part.

WITNESSETH: That the said first part in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing a drainage system and all other public utilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

The south 6 feet of Lot 6, Block 4, Agee – Hunter Addition, Wichita, Sedgwick County, Kansas

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such drainage system and all other public utilities.

IN WITNESS WHEREOF: The said first part has signed these presents the day and year first written.

Andrew L. Bias

Andrew L. Bias, President
Mennonite Housing Rehabilitation
Services, Inc.

STATE OF KANSAS)
SEDGWICK COUNTY)^{ss}

Personally appeared before me a notary public in and for the County and State aforesaid

Andrew L. Bias, President, Mennonite Housing Rehabilitation Services, Inc.

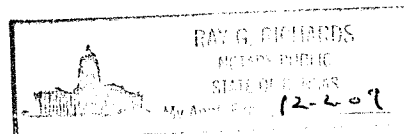
to me personally known to be the same person__ who executed the foregoing instrument of writing and said person__ duly acknowledged the execution thereof.

Dated this 6th day of March, 2008.

Ray G. Richards

Notary Public

My Commission Expires: 12.2.2009





Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28960282

Receipt #: 1682458
Pages Recorded: 2
Cashier Initials: DH

Recording Fee: \$12.00
Authorized By:

Date Recorded: 3/19/2008 9:13:00 AM



Grantor	<u>HARRIS YVETTE M</u>
Grantee	<u>WICHITA CITY OF</u>
Type of Document	<u>EASEMENTS - MISCELLANOUS</u>
Recording Fees	<u>\$12.00</u>
Mtg Reg Tax	<u>\$0.00</u>
Total Amount	<u>\$12.00</u>
Return Address	<u>CITY OF WICHITA PLANNING DEPT/CHERYL HO</u> <i>Lloway</i>
	<u>455 N MAIN 10TH FLR</u>
	<u>WICHITA KS 67202</u>
	<u></u>

DRAINAGE EASEMENT

THIS EASEMENT made this 12 day of MARCH, 2008, by and between Yvette M. Harris, 2702 N Chautauqua, Wichita, KS 67219 of the First part and the City of Wichita, Kansas of the second part.

WITNESSETH: That the said first part in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing a drainage system and all other public utilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

The south 6 feet of Lot 5, Block 4, Agee – Hunter Addition, Wichita, Sedgwick County, Kansas

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such drainage system and all other public utilities.

IN WITNESS WHEREOF: The said first part has signed these presents the day and year first written.

Yvette M. Harris
Yvette M. Harris, Owner

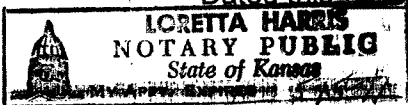
STATE OF KANSAS)
SEDGWICK COUNTY) ^{ss}

Personally appeared before me a notary public in and for the County and State aforesaid

Yvette M. Harris, Owner

to me personally known to be the same person__ who executed the foregoing instrument of writing and said person__ duly acknowledged the execution thereof.

Dated this 12th day of March, 2008.



Loretta Harris
Notary Public
My Commission Expires: 5-15th 2011
Sub 2007-96

**City of Wichita
City Council Meeting
April 8, 2008**

TO: Mayor and City Council Members

SUBJECT: SUB 2007-96 -- Plat of Chautauqua Addition located south of 29th Street North and west of Hillside. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

Background: This site consists of two lots on .34 acres and is located within Wichita's city limits. It is zoned SF-5 Single-family Residential. A vacation case (VAC 2006-47) has been approved for the vacation of street right-of-way.

Analysis: Sanitary sewer services are available to serve the site. Paving and water improvements were requirements of the vacation case. Off-site Drainage Easements have been provided and recorded with the Register of Deeds.

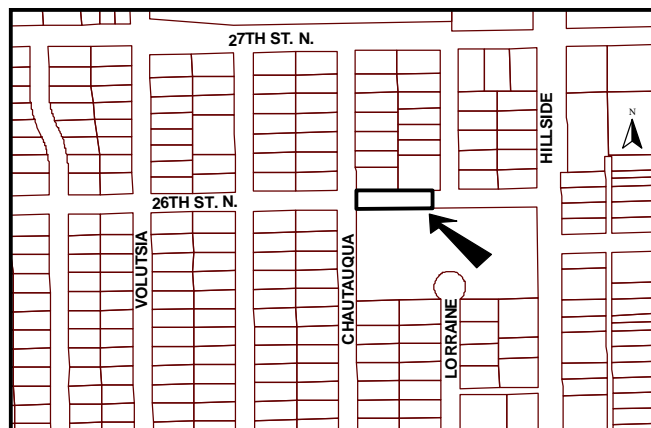
The Planning Commission has approved the plat, subject to conditions.

Financial Considerations: None.

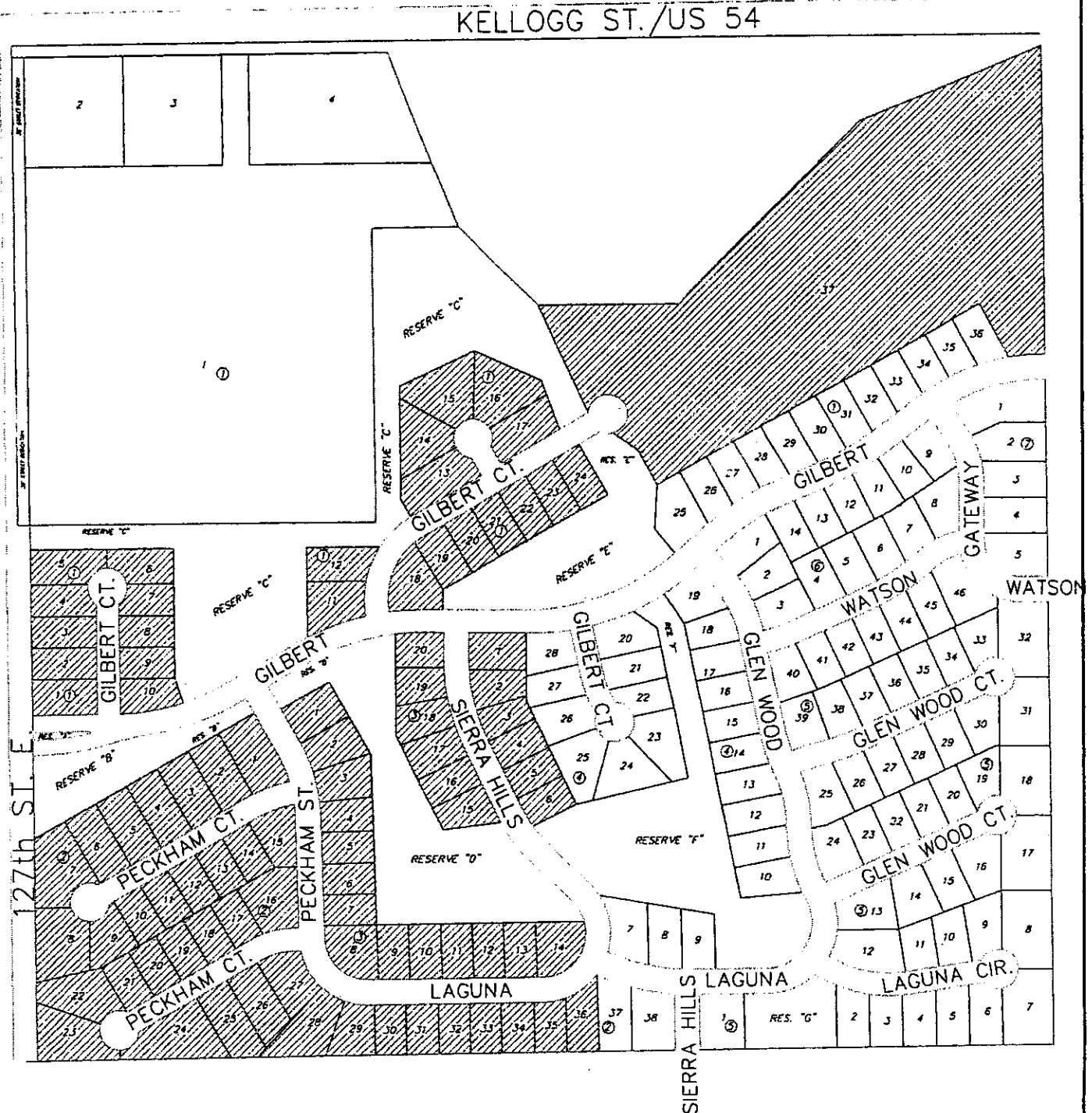
Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: None. (The Off-site Drainage Easements have been recorded with the Register of Deeds.)

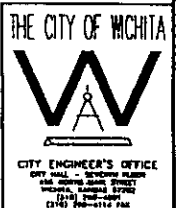
Recommendations/Actions: Approve the plat and authorize the necessary signatures.



COUNTRY HOLLOW ADDITION



BENEFIT DISTRICT 
 (ACTUAL ALIGNMENT TO BE
 DETERMINED BY DESIGN ENGINEER)



CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project

X

To Revise Project

1. Prepare in triplicate

2. Send original & 2 copies to budget.

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department.

6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 3/19/2007	4. Project Description & Location Laguna, etc paving in Country Hollow Addition	
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date	
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised	
As Required				
12. Project Cost Estimate				
ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.		\$430,000		\$430,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals		\$430,000		\$430,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the petition and adopt the resolution				

12A.

Platting Required	Yes	No
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

472-84351

Division Head <i>Jan Amador</i>	Department Head <i>CAHMC</i>	Budget Officer <i>Anthony D. Hill</i>	City Manager
Date	Date	Date	Date
		3/21/08	

PAVING PETITION
PHASE 2

RECEIVED

MAR 17 '08

To the Mayor and City Council
Wichita, Kansas

CITY CLERK OFFICE

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

COUNTRY HOLLOW ADDITION

Lots 25 through 37, Block 1;
Lots 37 & 38, Block 2;
Lots 7 through 28, Block 4;
Lots 1 through 46, Block 5;
Lots 1 through 14, Block 6;
Lots 1 through 5, Block 7;

472-84351

UNPLATTED TRACTS

Residential Tract - All of the following described tract of land lying in the Northwest Quarter, Section 26, Township 27 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:

COMMENCING at the Northwest corner of the Northwest Quarter, thence along the West line of said Northwest Quarter on a Kansas Coordinate System 1983 South Zone Grid Bearing of S00°44'22"E, 108.12 feet; thence N88°58'04"E 30.00 feet to the **POINT OF BEGINNING**, thence N88°58'04"E, 949.55 feet; thence S21°56'19"E, 476.30 feet; thence S88°43'30"W, 216.72 feet; thence S00°44'11"E, 743.43 feet; thence S89°15'49"W, 905.02 feet; thence N00°44'22"W, 1184.62 feet to the **POINT OF BEGINNING**.

EXCEPT; the North 475 feet thereof.

Said tract **CONTAINS:** 644,342 square feet or 14.79 acres of land, more or less.

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed pavement on Laguna/Glen Wood, from west line of Lot 7, Block 4 to the south line of Lot 12, Block 4; Paving Sierra Hills from the south line of Laguna to the south line of Lot 1, Block 5; Paving Glen Wood Court serving Lots 13 through 24, Block 5 from the east line of Glen Wood to and including the cul-de-sac; Paving Laguna Circle serving Lots 2 through 12, Block 5 from the east line of Laguna to and including the cul-de-sac; Gilbert Court serving Lots 20 through 28, Block 4 from the south line of Gilbert to and including the cul-de-sac; and Paving Gilbert from the west line of Lot 28, Block 4 to the east line of Lot 20, Block 4. That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by

the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

- (b) That the estimated and probable cost of the foregoing improvement is Four Hundred Thirty Thousand Dollars (\$430,000.00) exclusive of the cost of interest on borrowed money, with 100% percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after January 1, 2008.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lots 25 through 36, Block 1; and Country Hollow Addition shall each pay 36/10,000 of the total cost payable by the improvement district. Lots 12 through 19, Block 4; Lots 25 through 46, Block 5; Lots 1 through 14, Block 6; and Lots 1 through 5, Block 7; Country Hollow Addition shall each pay 44/10,000 of the total cost payable by the improvement district. Lot 37, Block 1; Country Hollow Addition shall pay 174/10,000 of the total cost payable by the improvement district. Lots 37 & 38, Block 2; Lots 7 through 11, Block 4; and Lots 20 through 28, Block 4; Country Hollow Addition shall each pay 174/10,000 of the total cost payable by the improvement district. Lots 1 through 24, Block 5; Country Hollow Addition shall each pay 173/10,000 of the total cost payable by the improvement district. The Unplatted Residential Tract shall pay 346/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

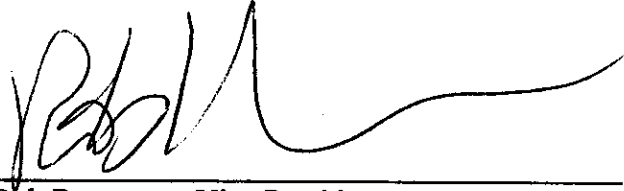
2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

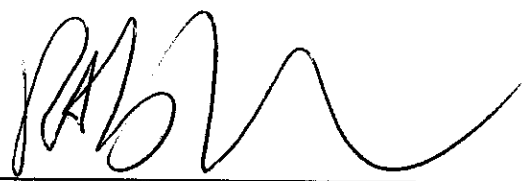
4. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>COUNTRY HOLLOW ADDITION</u> Lots 25 through 37, Block 1; Lots 37 & 38, Block 2; Lots 7 through 28, Block 4; Lots 1 through 46, Block 5; Lots 1 through 14, Block 6; and Lots 1 through 5, Block 7; Country Hollow Addition, an addition to Wichita, Sedgwick County, Kansas.	RITCHIE DEVELOPMENT CORPORATION A Kansas Corporation 	
	By: _____ Rob Ramseyer, Vice President	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<p><u>UNPLATTED RESIDENTIAL TRACT</u></p> <p>All of the following described tract of land lying in the Northwest Quarter, Section 26, Township 27 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:</p> <p>COMMENCING at the Northwest corner of the Northwest Quarter, thence along the West line of said Northwest Quarter on a Kansas Coordinate System 1983 South Zone Grid Bearing of S00°44'22"E, 108.12 feet; thence N88°58'04"E 30.00 feet to the POINT OF BEGINNING, thence N88°58'04"E, 949.55 feet; thence S21°56'19"E, 476.30 feet; thence S88°43'30"W, 216.72 feet; thence S00°44'11"E, 743.43 feet; thence S89°15'49"W, 905.02 feet; thence N00°44'22"W, 1184.62 feet to the POINT OF BEGINNING.</p> <p>EXCEPT; the North 475 feet thereof.</p> <p>Said tract CONTAINS: 644,342 square feet or 14.79 acres of land, more or less.</p>	<p>RITCHIE DEVELOPMENT CORPORATION A Kansas Corporation</p> <p>By: </p> <p>Rob Ramseyer, Vice President</p>	

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Rachel A. Sanders
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 17th day of March 2008.



Deborah B. Dindock
Deputy City Clerk

City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council Members

SUBJECT: Petition for Street Paving in Country Hollow Addition (south of Kellogg, east of 127th St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On January 10, 2006, the City Council approved a petition to pave streets in Country Hollow Addition. The developer has submitted a new Petition to modify the scope of the project to reflect current marketing conditions. The signature on the Petition represents 100% of the improvement district.

Analysis: The project will provide street paving for a new residential development located south of Kellogg, east of 127th St. East.

Financial Considerations: The existing Petition totals \$394,000. The new Petition totals \$430,000. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing street paving required for a new residential development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Map, CIP Sheet, Petition and Resolution.

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON LAGUNA/GLEN WOOD, FROM WEST LINE OF LOT 7, BLOCK 4 TO THE SOUTH LINE OF LOT 12, BLOCK 4; PAVING SIERRA HILLS FROM THE SOUTH LINE OF LAGUNA TO THE SOUTH LINE OF LOT 1, BLOCK 5; PAVING GLEN WOOD COURT SERVING LOTS 13 THROUGH 24, BLOCK 5 FROM THE EAST LINE OF GLEN WOOD TO AND INCLUDING THE CUL-DE-SAC; PAVING LAGUNA CIRCLE SERVING LOTS 2 THROUGH 12, BLOCK 5 FROM THE EAST LINE OF LAGUNA TO AND INCLUDING THE CUL-DE-SAC; GILBERT COURT SERVING LOTS 20 THROUGH 28, BLOCK 4 FROM THE SOUTH LINE OF GILBERT TO AND INCLUDING THE CUL-DE-SAC; AND PAVING GILBERT FROM THE WEST LINE OF LOT 28, BLOCK 4 TO THE EAST LINE OF LOT 20, BLOCK 4 (SOUTH OF KELLOGG, EAST OF 127TH ST. EAST) 472-84351 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING PAVEMENT ON LAGUNA/GLEN WOOD, FROM WEST LINE OF LOT 7, BLOCK 4 TO THE SOUTH LINE OF LOT 12, BLOCK 4; PAVING SIERRA HILLS FROM THE SOUTH LINE OF LAGUNA TO THE SOUTH LINE OF LOT 1, BLOCK 5; PAVING GLEN WOOD COURT SERVING LOTS 13 THROUGH 24, BLOCK 5 FROM THE EAST LINE OF GLEN WOOD TO AND INCLUDING THE CUL-DE-SAC; PAVING LAGUNA CIRCLE SERVING LOTS 2 THROUGH 12, BLOCK 5 FROM THE EAST LINE OF LAGUNA TO AND INCLUDING THE CUL-DE-SAC; GILBERT COURT SERVING LOTS 20 THROUGH 28, BLOCK 4 FROM THE SOUTH LINE OF GILBERT TO AND INCLUDING THE CUL-DE-SAC; AND PAVING GILBERT FROM THE WEST LINE OF LOT 28, BLOCK 4 TO THE EAST LINE OF LOT 20, BLOCK 4 (SOUTH OF KELLOGG, EAST OF 127TH ST. EAST) 472-84351 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 06-014 adopted on January 10, 2006 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement on Laguna/Glen Wood, from west line of Lot 7, Block 4 to the south line of Lot 12, Block 4; Paving Sierra Hills from the south line of Laguna to the south line of Lot 1, Block 5; Paving Glen Wood Court serving Lots 13 through 24, Block 5 from the east line of Glen Wood to and including the cul-de-sac; Paving Laguna Circle serving Lots 2 through 12, Block 5 from the east line of Laguna to and including the cul-de-sac; Gilbert Court serving Lots 20 through 28, Block 4 from the south line of Gilbert to and including the cul-de-sac; and Paving Gilbert from the west line of Lot 28, Block 4 to the east line of Lot 20, Block 4 (south of Kellogg, east of 127th St. East) 472-84351.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Four Hundred Thirty Thousand Dollars (\$430,000)** exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **January 1, 2008**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

COUNTRY HOLLOW ADDITION

Lots 25 through 37, Block 1

Lots 37 & 38, Block 2

Lots 7 through 28, Block 4

Lots 1 through 46, Block 5

Lots 1 through 14, Block 6

Lots 1 through 5, Block 7

UNPLATTED TRACTS

Residential Tract - All of the following described tract of land lying in the Northwest Quarter, Section 26, Township 27 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:

COMMENCING at the Northwest corner of the Northwest Quarter, thence along the West line of said Northwest Quarter on a Kansas Coordinate System 1983 South Zone Grid Bearing of S00°44'22"E, 108.12 feet; thence N88°58'04"E 30.00 feet to the **POINT OF BEGINNING**, thence N88°58'04"E, 949.55 feet; thence S21°56'19"E, 476.30 feet; thence S88°43'30"W, 216.72 feet; thence S00°44'11"E, 743.43 feet; thence S89°15'49"W, 905.02 feet; thence N00°44'22"W, 1184.62 feet to the **POINT OF BEGINNING**. **EXCEPT**; the North 475 feet thereof. Said tract **CONTAINS**: 644,342 square feet or 14.79 acres of land, more or less.

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 25 through 36, Block 1; COUNTRY HOLLOW ADDITION shall each pay 36/10,000 of the total cost payable by the improvement district. Lots 12 through 19, Block 4; Lots 25 through 46, Block 5; Lots 1 through 14, Block 6; and Lots 1 through 5, Block 7; COUNTRY HOLLOW ADDITION shall each pay 44/10,000 of the total cost payable by the improvement district. Lot 37, Block 1; COUNTRY HOLLOW ADDITION shall pay 174/10,000 of the total cost payable by the improvement district. Lots 37 and 38, Block 2; Lots 7 through 11, Block 4; and Lots 20 through 28, Block 4; COUNTRY HOLLOW ADDITION shall each pay 174/10,000 of the total cost payable by the improvement district. Lots 1 through 24, Block 5; COUNTRY HOLLOW ADDITION shall each pay 173/10,000 of the total cost payable by the improvement district. The UNPLATTED RESIDENTIAL TRACT shall pay 346/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2008.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council Members

SUBJECT: Petition to construct 13th Street and Webb Road Left Turn Lane to serve Foliage Center and Country Club Park Additions (at 13th, west of Webb) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petitions.

Background: The Petitions have been signed by two owners representing 100% of the improvement districts.

Analysis: The projects will provide paving improvements for new commercial development at 13th Street, west of Webb.

Financial Considerations: The Petitions total \$235,000. The funding source is special assessments.

Goal Impact: These projects address the Efficient Infrastructure goal by providing for the construction of paving improvements for a new development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the Petitions, adopt the Resolutions and authorize the necessary signatures.

Attachments: Map, CIP, Petition and Resolution.

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING A **LEFT TURN LANE ON 13TH STREET FOR EASTBOUND TRAFFIC INTO A MAJOR ENTRANCE (NORTH OF 13TH, WEST OF WEBB) 472-84688** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING A **LEFT TURN LANE ON 13TH STREET FOR EASTBOUND TRAFFIC INTO A MAJOR ENTRANCE (NORTH OF 13TH, WEST OF WEBB) 472-84688** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **08-119** adopted on **February 26, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing a **left turn lane on 13th Street for eastbound traffic into a major entrance (north of 13th, west of Webb) 472-84688**.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **One Hundred Eighteen Thousand Dollars (\$118,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **February 1, 2008** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

FOLIAGE CENTER ADDITION

Lot 1, Block 1

COUNTRY CLUB PARK ADDITION

Lot 1, Block 1

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, Block 1, FOLIAGE CENTER ADDITION shall pay 77/100 of the total cost payable by the improvement district; Lot 1, Block 1, COUNTRY CLUB PARK ADDITION shall pay 23/100 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9 Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this ____ day of _____, 2008.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING A **LEFT TURN LANE ON WEBB ROAD FOR NORTHBOUND TRAFFIC INTO MAJOR ENTRANCES (NORTH OF 13TH, WEST OF WEBB) 472-84689** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING A **LEFT TURN LANE ON WEBB ROAD FOR NORTHBOUND TRAFFIC INTO MAJOR ENTRANCES (NORTH OF 13TH, WEST OF WEBB) 472-84689** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **08-120** adopted on **February 26, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing a **left turn lane on Webb road for northbound traffic into major entrances (north of 13th, west of Webb) 472-84689.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **One Hundred Seventeen Thousand Dollars (\$117,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **February 1, 2008** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

FOLIAGE CENTER ADDITION

Lot 1, Block 1

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, Block 1, FOLIAGE CENTER ADDITION shall pay 100% of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2008.

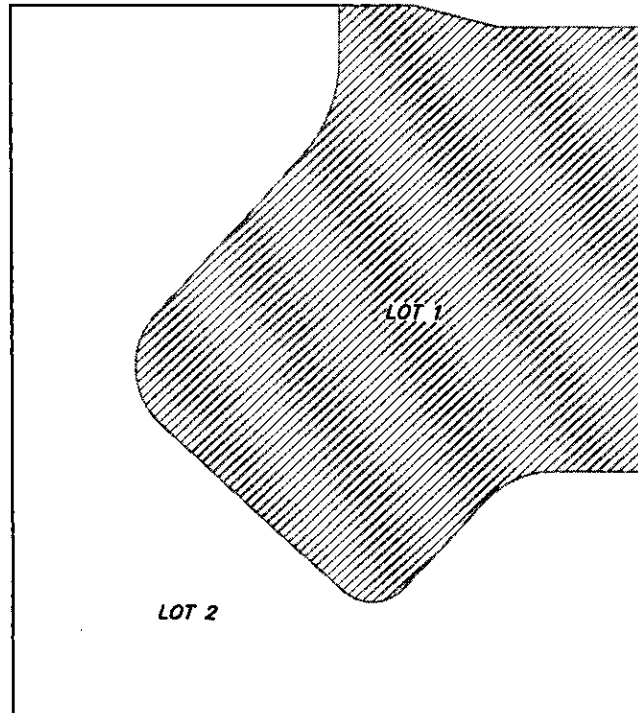
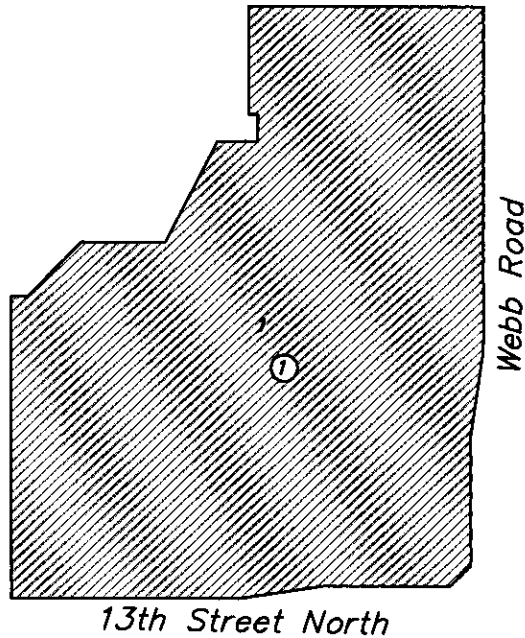
CARL BREWER, MAYOR

ATTEST:

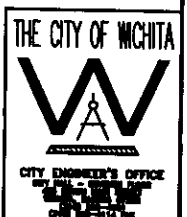
KAREN SUBLETT, CITY CLERK

(SEAL)

FOLIAGE CENTER ADDITION COUNTRY CLUB PARK ADDITION



BENEFIT DISTRICT 
(ACTUAL ALIGNMENT TO BE
DETERMINED BY DESIGN ENGINEER)



CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

- USE:
- 1. Prepare in triplicate
 - 2. Send original & 2 copies to budget.
 - 3. City Manager to sign all copies.
 - 4. File original w/ initiating resolution in City Clerk.
 - 5. Return 2nd copy to initiating department.
 - 6. Send 3rd copy to Controller.

To Initiate Project ☐

To Revise Project ☒

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 3/19/2007	4. Project Description & Location 13th St Left Turn Lane for Foliage Center Addition	
5. CIP Project Number NI-200424	6. Accounting Number 2008	7. CIP Project Date (Year)	8. Approved by WCC Date	
9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised		
As Required	As Required			
12. Project Cost Estimate				
ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.		\$118,000		\$118,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals		\$118,000		\$118,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the petition and adopt the resolution				

Platting Required	Yes	No
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

472-84688

City Manager

Budget Officer

Department Head

Division Head

Anthony A. Kelly
3/21/08

John R. Ransom

Date

Date

Date

Date

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project

To Revise Project

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 3/19/2007	4. Project Description & Location Webb Road Left Turn Lane for Foliage Center Addition
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date
9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised	
As Required	As Required		
12. Project Cost Estimate			
ITEM	GO	SA	OTHER * TOTAL
Right of Way			
Paving, grading & const.		\$117,000	\$117,000
Bridge & Culverts			
Drainage			
Sanitary Sewer			
Sidewalk			
Water			
Traffic Signals			
Totals		\$117,000	\$117,000
Total CIP Amount Budgeted			
Total Prelim. Estimate			
13. Recommendation: Approve the petition and adopt the resolution			

12A.

Platting Required	Yes	No
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

472-84689

Division Head

Department Head

Budget Officer

City Manager

William A. Hall

Date

Date

3/21/08

M/R - 6 '08

PAVING PETITION - REVISED
LEFT TURN LANE - 13TH STREET

CITY CLERK OFFICE

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

FOLIAGE CENTER ADDITION

Lot 1, Block 1;

472-84688

COUNTRY CLUB PARK ADDITION

Lot 1, Block 1;

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a left turn lane on 13th Street for eastbound traffic into a major entrance to serve the area described above. That said turn lane be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvement is One Hundred Eighteen Thousand Dollars (\$118,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after February 1, 2008.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lot 1, Block 1; Foliage Center Addition shall pay 77/100 of the total cost payable by the improvement district, and Lot 1, Block 1, Country Club Park Addition shall pay 23/100 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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FOLIAGE CENTER ADDITION

Lot 1, Block 1; Foliage Center Addition, an addition to Wichita, Sedgwick County, Kansas.

**BEECH LAKE INVESTMENT, LLC,
A Kansas Limited Liability Company**

By: _____

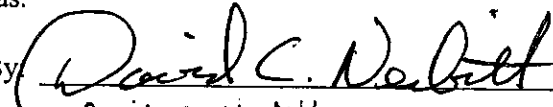
Johnny Stevens, Manager

COUNTRY CLUB PARK ADDITION

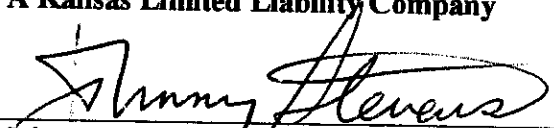
Lot 1, Block 1; Country Club Park Addition, an addition to Wichita, Sedgwick County, Kansas.

COUNTRY CLUB PARK, INC.

By: _____


David C. Nesbitt
Secretary

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>FOLIAGE CENTER ADDITION</u> Lot 1, Block 1; Foliage Center Addition, an addition to Wichita, Sedgwick County, Kansas.	BEECH LAKE INVESTMENT, LLC, A Kansas Limited Liability Company By:  Johnny Stevens, Manager	
<u>COUNTRY CLUB PARK ADDITION</u> Lot 1, Block 1; Country Club Park Addition, an addition to Wichita, Sedgwick County, Kansas.	COUNTRY CLUB PARK, INC. By: _____	

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Cynthia A. Womack
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 6 day of March 2008.

John Edwards
Deputy City Clerk



RECEIVED

MAR - 6 '08

PAVING PETITION - REVISED
LEFT TURN LANE - WEBB ROAD

CITY CLERK OFFICE

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

FOLIAGE CENTER ADDITION
Lot 1, Block 1;

472-84689

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a left turn lane on Webb Road for northbound traffic into major entrances to serve the area described above. That said turn lane be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvement is One Hundred Seventeen Thousand Dollars (\$117,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after February 1, 2008.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the

Foliage Center Addition - Left Turn Lane - Webb Road Petition Rev. 2-25-08

GJA/cw 04274

Page 1

improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lot 1, Block 1; Foliage Center Addition shall pay 100% of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

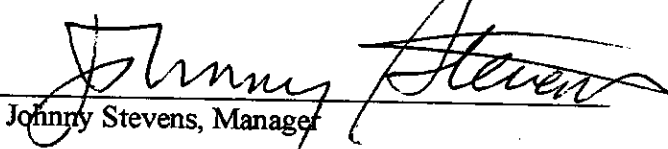
2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>FOLIAGE CENTER ADDITION</u> Lot 1, Block 1; Foliage Center Addition, an addition to Wichita, Sedgwick County, Kansas.	BEECH LAKE INVESTMENT, LLC, A Kansas Limited Liability Company By:  Johnny Stevens, Manager	

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Cynthia A. Womack
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 6 day of March 20 08.



Janis Edwards
Deputy City Clerk

**CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
MARCH 2008**

COMMODITY TITLE	EXPIRATION	VENDOR NAME	DEPARTMENT	ORIGINAL	RENEWAL OPTIONS
	DATE			CONTRACT DATES	REMAINING
Bus Pass (Magnetic) Transfer Stock	3/31/2009	Magnetic Ticket & Label Corp	Wichita Transit	4/3/2007 - 4/30/2008	1 - 1 year option
Bus Tickets (Magnetic Stripe for Use in GFI Fare Collection Equipment)	3/31/2009	Electronic Data Magnetics Inc.	Transit	3/20/2007 - 3/31/2008	1 - 1 year option
Compactor Truck and Open Dumpster Services for Neighborhood Cleanup	3/31/2009	Waste Connections of Kansas, Inc.	Public Works	4/1/2007 - 3/31/2008	1 - 1 year option
Comparable Market Analysis Single Family Residential Units	3/31/2009	Coldwell Banker Stucky & Associates	Housing & Community Services	4/1/2007 - 3/31/2008	3 - 1 year options
Concession Sales At Baseball Fields Located at Planeview Park Baseball Fields	3/31/2009	Juan Campos	Parks & Recreation	4/1/2007 - 3/31/2008	1 - 1 year option
Controlled Substance & Alcohol Testing Program Third Party Administrator	3/31/2008	Foley Services Inc.	Human Resources	4/10/2007 - 3/31/2008	4 - 1 year options
Janitorial Services for the Transit Centers	3/31/2009	AAA Commercial Janitorial	Transit	4/23/2007 - 3/31/2008	1 - 1 year option
Meter Adapters - 5/8" to 3/4"	3/31/2009	Municipal Supply, Inc.	Water Utilities	4/1/2007 - 3/31/2008	1 - 1 year option
Mowing & Ground Maint. of the Water Center	3/31/2009	Complete Landscaping Systems	Environmental Services	4/13/2007 - 3/31/2008	1 - 1 year option
Mowing & Landscape Maint. For Brooks Landfill	3/31/2009	D & R Mowing Services, L.L.C.	Public Works	4/1/2007 - 3/31/2008	1 - 1 year option
Photography Services for Youth Baseball, Softball, T-Ball and Aquatics	3/31/2008	Iseman Photography dba Replay Sports Photography	Parks & Recreation	4/6/2006 - 3/31/2007	1 - 1 year option
Printing, Official Statement	3/31/2009	Midwest Single Source, Inc.	Finance	4/1/2007 - 3/31/2008	1 - 1 year option
Rags, Wiping	3/31/2009	Champs Wiping Rag Co., Inc.	Various	4/1/2007 - 3/31/2008	1 - 1 year option
Security Services - Downtown Transit Center	3/31/2009	Vend Tech Enterprise, L.L.C.	Transit	4/1/2007 - 3/31/2008	1 - 1 year option
Swimming Apparel (Staff)	3/31/2008	Associated Swim Shop	Parks & Recreation	4/1/2007 - 3/31/2008	2 - 1 year options

**PROFESSIONAL CONTRACTS UNDER \$25,000
PURCHASE ORDERS FOR MARCH 2008**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Ruggles & Bohm PA	PO800141	Engineering Consulting	4,300.00		
Ruggles & Bohm PA	PO 800142	Engineering Consulting	3,500.00		
Ruggles & Bohm PA	PO800207	Engineering Consulting	11,000.00		
MKEC Engineering Consultants Inc.	PO800208	Engineering Consulting	15,100.00		
Springsted Incorporated	PO800233	Finance/Economics Consulting	10,000.00		
Ruggles & Bohm PA	PO800258	Engineering Consulting	24,800.00		
Professional Engineering	PO800276	Engineering Consulting	15,000.00		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000
DIRECT PURCHASE ORDERS FOR MARCH 2008**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Infor Global Solutions Inc.	DP800583	Software Maintenance/Support	\$72,325.04		
Dell Marketing LP	DP800288	Software Maintenance/Support	\$40,000.00		
Dell Marketing LP	PO800289	Software Maintenance/Support	\$40,149.70		



5 February 2008

Norman Jakovac, Special Projects Coordinator
Building Services Division
Public Works Department
455 North Main - 8th Floor
Wichita, Kansas 67202

Reference: City of Wichita
Mid-America All Indian Center - Phase II
Wichita, Kansas

Dear Norman:

We propose to perform all architectural, structural, mechanical and electrical professional services for remodeling the Kiva and other areas of the building, with the exception of the museum wing area which is currently under construction, based upon the following:

Emprise Center
257 N. Broadway
Wichita, Kansas
67202-2317

Ph. 316.684.0171
Fax. 316.684.8835
www.sjcf.com
architecture@sjcf.com

Fee

\$460,000 @ 8.7% = \$40,000

SD	20% of 40,000	=	8,000
DD	20% of 40,000	=	8,000
CD	35% of 40,000	=	14,000
B/N	5% of 40,000	=	2,000
CO	20% of 40,000	=	8,000

Total \$40,000 (minimum)

Our fee is based on a minimum budget of \$460,000. In the event the budget is increased, our fee would be raised accordingly at the percentage stated.

Please call me if you have any questions.

Sincerely,

Edward M. Koser, AIA
Vice President

Associates
Joseph A. Johnson
Kenton L. Cox
J. Samuel Frey
Vernon F. Miller
Edward M. Koser
Brad E. Biddle
Scott Stafford
Terry L. Wiggers
Shannon F. Bohm

**City of Wichita
City Council Meeting
April 8, 2008**

TO: Mayor and City Council Members

SUBJECT: Mid-America All-Indian Center Improvements (MAAIC) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Contract Amendment.

Background: The MAAIC is the only Native American organization in Wichita, which provides tourism activities, Native American cultural programs and social services to Native Americans.

On October 4, 2005, City Council meeting approved a CIP project, which would provide needed improvements and modifications to the facility and authorized staff to select a consultant.

On March 21, 2006, City Council approved a contract with Schaefer Johnson Cox Frey Architecture (SJCF) to provide architectural/engineering services and other related items for the design and construction of the improvements/modifications.

Analysis: Phase I improvements included renovation of the museum/gallery area including new wall covering, a higher level of lighting, new floor covering, security system, upgrades to the HVAC system and a humidification system compatible to a museum environment. This work was bid December 14, 2007 with construction currently underway.

Phase II improvements will include remodeling of the interior space outside the gift shop/museum wing. This will include but not be limited to replacement of the quarry tile floor, ADA modifications as required by the ADA Facilities Study, kitchen upgrades, and elevator for 2nd level access, wall finishes, carpet and security.

For the Phase II design, bid and specifications documents, preparation bidding and construction administration and other related items, a single lump sum fee including reimbursable expenses of \$43,000 has been negotiated. This fee is based on a construction budget of \$460,000.

Financial Considerations: The project is authorized in the approved 2007-2016 Capital Improvement Program (CIP), Cultural Facilities Enhancements (Project No. 435427, OCA No. 792502 MAAIC, 792503 Cow town and 792504 Kansas Aviation Museum). GO funding is a total of \$1 million annually to be shared between the three facilities each year in 2008, 2009 and 2010.

Goal Impact: This project addresses the Efficient Infrastructure goal by maintaining public facilities and assets.

Legal Considerations: The Law Department has approved the Contract as to form.

Recommendations/Actions: It is recommended that the City Council approve the Contract Amendment and authorize the necessary signatures.

Attachments: Contract Amendment.

AMENDMENT NUMBER ONE

THIS AMENDMENT, Made the _____ day of _____ 2008,

BY AND BETWEEN

THE CITY OF WICHITA, KANSAS
A Municipal Corporation, hereinafter
referred to as

“OWNER”

AND

SCHAEFER JOHNSON COX FREY
& ASSOCIATES, P.A., hereinafter
referred to as

“ARCHITECT”

WHEREAS, the parties have heretofore, on the 21st day of March 2006, entered into a Contract; and

WHEREAS, the parties wish to modify the “SCOPE OF SERVICES” in connection with the proposed modifications to the Mid-America All Indian Center (MAAIC) which is the subject matter of such Contract.

NOW, THEREFORE, in consideration of the promises and covenants herein contained and to be performed, the parties hereto agree as follows:

I. The Contract between the parties dated March 21, 2006 shall be amended to change the Basic Services (EXHIBIT “A”) to be performed by the **ARCHITECT** as follows:

The **ARCHITECT** will provide architectural, structural, mechanical/plumbing, and electrical engineering professional services for remodeling the KIVA and other areas of the MAAIC, with the exception of the museum wing area which was the scope of the contract dated March 21, 2006. The **ARCHITECT** will consult with the **OWNER** and prepare the detailed construction drawings and specifications after full consideration has been given to the Conceptual Study, Schematic and Design Development Phases, sketches and estimates. The drawings and specifications will also identify work to be done by the **OWNER** using their employees or other contracted entities. The documents will be sufficient for bidding and construction by a General Contractor under a single contract.

The **ARCHITECT** will obtain approvals of State or other agencies as necessary to the drawings and specifications.

Federal and state laws prohibit discrimination based on disability. Section 504 of the Rehabilitation Act of 1973, as amended (504), and the Americans with Disabilities Act of 1990 (ADA) require that the City of Wichita and all organizations or firms contracting with the City of Wichita, except those providing tangible goods, comply with ADA/504 accessibility requirements. I understand that reasonable accommodation is required in both program services and employment, except where to do so would cause an undue hardship or burden. I also agree that all new construction, alterations, or additions to City of Wichita buildings or facilities, performed by my organization or its subcontractors, must comply with all city, state, and federal laws, including related building guidelines/codes, and specifically the Americans with Disabilities Accessibility Guidelines (ADAAG).

The **ARCHITECT** will prepare proposals, forms, and notices to bidders. Set forth in detail and prescribe the work to be done; the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical/plumbing, electrical, service connected equipment, and site work, and contract documents satisfactory to the **OWNER** for the effective coordination and efficient execution of the proposed construction projects.

The **ARCHITECT** will use the **OWNER'S** Modified Construction Contract and General Conditions packages (AIA 101 and 201 modifications) that have been approved by the City of Wichita, Law Department, when American Institute of Architects (AIA) form documents are used in connection with the City's bid and specification documents.

The **ARCHITECT** will furnish a formal written estimate of the probable cost of constructing the Project according to the completed drawings and specifications as approved by the **OWNER**.

The **ARCHITECT** will conduct the necessary code analysis, consult with governing authorities having jurisdiction over the Project, and incorporate their requirements into the construction documents for the Project.

Reproduction of the completed plans and specifications for use in bidding will be the responsibility of the **OWNER** and the **OWNER** will pay for all reproduction and associated costs directly.

The **ARCHITECT** will review bidding documents for completeness and coordination before release for bids. The **OWNER** will issue bidding documents to the bidders.

The **ARCHITECT** will provide guidance to the **OWNER** and to prospective bidders, write and coordinate and otherwise aid in the issuance of addenda or provide clarifications as required.

The **ARCHITECT** will furnish a formal written estimate of probable construction costs to the **OWNER'S** Project Manager two days before the bid opening. **ARCHITECT** will also provide bid tabulation sheet(s) to the **OWNER'S** Project Manager for use in receiving bids two days before the bid opening.

During the Construction Phase, the **ARCHITECT** will be responsible for providing periodic monitoring of the construction in accordance with professional standards. In addition, the **ARCHITECT** will condemn work, which fails to conform to the Contract Documents, prepare certificates of payments due the contractor, provide consultation and advice to the **OWNER** and contractor during construction, issue necessary interpretations and clarifications of the Contract Documents, and review shop drawings for conformation with the bid documents.

The **ARCHITECT** will not be responsible for the contractor(s) scheduling, means or methods of construction or be responsible for the safety of the site and/or workplace.

- II. The Contract between the parties dated March 21, 2006 shall be amended to change the **PAYMENTS**. The **OWNER** agrees to pay the **ARCHITECT** for services rendered under this Amendment Number One, a total fee established as follows:

For the remodeling of the KIVA and other areas of the MAAIC, except the museum wing, the Bid and Specification Documents, Bidding and Construction Phase and other related items including those items identified in Paragraph I above a single stipulated lump sum fee including reimbursable expenses of \$40,000.00. This fee is based on a minimum budget of \$460,000.00

This fee shall constitute complete compensation for the services. (See attached proposals a copy of which is attached hereto and which is incorporated herein by reference.)

This fee shall be payable in monthly installments, and in proportion to the services performed, payable upon the satisfactory performance of the service.

For work performed by the **ARCHITECT** that is outside the SCOPE OF SERVICES as described above whether performed in the office or the site will be billed at the following hourly rates with a not to exceed amount of three thousand dollars (\$3,000.00):

Project Manager	Joseph A. Johnson, AIA	\$70.00
Project Architect	Edward M. Koser, AIA	\$70.00
Architectural Intern	As Assigned	\$40.00

III. All other provisions of the March 21, 2006 Contract and subsequent Amendments between the parties hereto not modified herein shall remain in full force and effect.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

by _____
Carl Brewer, Mayor

Attest:

SCHAEFER JOHNSON COX FREY
& ASSOCIATES, P.A.

Karen Sublett, City Clerk

by _____
Joseph A. Johnson, AIA
Senior Vice President

City Seal:

Approved as to form:

Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
April 8, 2008

TO: Mayor and City Council

SUBJECT: Municipality Resolution to Obtain Credit Card Account

INITIATED BY: Department of Finance.

AGENDA: Consent

Recommendation: Approve Municipality resolution for Credit Card Account.

Background: The City of Wichita has maintained a credit card account since 1997. The users have grown over the past 10 years to over 378 cards. The City currently has a contract with Commerce Bank to issue these cards at no cost to the City. The City receives revenue sharing for card usage with our current bank, if the average transaction for the month is above \$300.00. Using the card has lowered the volume of invoices coming into the City to be prepared for payment through check or ACH. The City's current usage of credit cards is over 20,000 transactions annually.

Analysis: This resolution will give authority to the Credit Card Administrator, Purchasing Manager and the Purchasing Manager's designee to establish credit card accounts on behalf of the City of Wichita.

Financial Considerations: There is no cost to the City for these accounts.

Legal Considerations: Resolution as approved as to form by the Law Department.

Goal Impact: Increased productivity by increasing purchases made from credit cards. Purchases with credit cards would lower the volume of invoices coming into the City to be paid using less time and supplies to accomplish the accounts payable process. While reducing costs utilizing the purchasing card to acquire commodities and receiving revenue share.

Recommendations/Actions: It is recommended that the City Council approve the resolution as written establishing the credit card account.

Attachment : Resolution

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CREDIT CARD ADMINISTRATOR, PURCHASING MANAGER OR CONTRACT COMPLIANCE OFFICER TO DIRECT AND ESTABLISH CREDIT CARD ACCOUNTS WITH THE COMMERCE BANK, N.A. (OMAHA, NE.) AND FORWARD TO THE MAYOR FOR EXECUTION ALL DOCUMENTS WHICH THE GOVERNING BODY HAS APPROVED TO EFFECTUATE THIS PURPOSE, INCLUDING WITHOUT LIMITATION ANY APPLICATION AND AGREEMENT TO OPEN THE ACCOUNTS.

WHEREAS, it is the intention of the Governing Body that any one of the foregoing named employees of this municipality may from time to time request Commerce Bank, N.A. (“Commerce”) to issue bank cards to any person in connection with any of the accounts.

WHEREAS, it is the further intention of the Governing Body that any one of the foregoing named employees of this municipality may from time to time appoint a city staff member as administrator to assist Commerce in the administration of the credit card program as provided in the Commerce Bank Commercial Card Agreement.

WHEREAS, it is the further intention of the Governing Body that Commerce be authorized to act upon this Resolution until written notice of revocation is delivered to Commerce, and that the authority hereby granted shall apply with equal force and effect to the successors in office of the officers named herein.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Authorization of the Credit Card Administrator, Purchasing Manager and Contract Compliance Officer to direct and establish credit card accounts with Commerce. Any one of the foregoing named employees of this municipality (whose specimen signatures are also affixed below) may from time to time request Commerce Bank, N.A. (“Commerce”) to issue bank cards to any person in connection with any of the accounts, and may from time to time appoint a city staff member as administrator to assist Commerce in the administration of the credit card program as provided in the Commerce Bank Commercial Card Agreement. Each of such officers is also authorized to forward to the Mayor for execution all documents which the Governing Body has approved to effectuate this purpose, including without limitation any application and agreement to open the accounts.

Credit Card Administrator

Purchasing Manager

Contract Compliance Officer

Section 2. Authority of City Clerk to attest. The City Clerk or any Deputy city clerk is hereby authorized and directed to attest the Mayor's signature on such documents, for and on behalf of the City.

Section 3. Continuing Authority of specified office holders. Commerce is authorized to act upon this Resolution until written notice of revocation is delivered to Commerce, and the authority hereby granted shall apply with equal force and effect to the successors in office of the officers named herein

Section 4. Effective Date. This Resolution shall take effect immediately upon its passage by the Governing body of the City.

Adopted by the governing body of the City of Wichita, Kansas, this _____ day of February, 2008.

CITY OF WICHITA, KANSAS

By _____

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

Gary E. Rebenstorf
Director of Law